

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 10, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, May 10, 2001 at 12:00 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; James Barfield; Elizabeth Bishop; Kerry Coulter; Frank Garofalo; Bud Hentzen; Bill Johnson; Richard Lopez; Ron Marnell; John W. McKay, Jr.; George Platt; Harold Warner; and Ray Warren. Dorman Blake was not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; and Karen Wolf, Recording Secretary with Valerie Robinson for Comprehensive Plan Citizen's Advisory Committee.

1. Presentation on the Final Report of the Comprehensive Plan Citizen's Advisory Committee by Stan Longhofer, Committee Chairperson.

Following a brief self-introduction, Stan Longhofer presented to the MAPC the findings and recommendations of the Comprehensive Plan Citizen's Advisory, as contained in their Final Report dated March 2001. Stan outlined the circumstances associated with the Committee's appointment last year by the City of Wichita and Sedgwick County, and reviewed the three majors charges assigned to the Committee by the governing bodies. The Committee's three tasks were: 1. Identify techniques that would help in preserving prime agricultural land in the county (other than through the use of agricultural zoning); 2. Review possible new requirements for land subdivision in rural areas that would preserve the option for further subdivision when public services are made available; and, 3. Develop a set of overriding principles that can be used to guide and evaluate policy proposals relating to land-use decisions, particularly with respect to new development and redevelopment in urban areas of the county.

Stan explained that the Committee membership represented a cross-section of viewpoints and the goal was to reach consensus on the three charges. Expert presentations on a variety of related topics were made to the Committee. A particular challenge for the Committee was defining what constituted prime agricultural land, and what it meant to "preserve prime agricultural land". The Committee eventually reached consensus on these issues, and determined that a key issue in this discussion is the impact that 510 acre parcels in the rural areas have on agricultural activity. The Committee evaluated a number of agricultural preservation tools and techniques used in other areas of the country that could be used to help preserve prime agricultural land in Sedgwick County.

Warren arrived at the meeting at 12:40 p.m.

After much discussion over several meetings, the Committee came up with the following policy recommendations for which there existed general consensus amongst the Committee membership. Implementation details regarding these recommendations have been left to the MAPC for their consideration.

1. As a means of promoting the logical/efficient extension of future urban services and in order to help maintain contiguous farmland, the CPCAC recommends that new subdivision standards be developed that require rural lots throughout the county to meet a 20-acre minimum lot size requirement, with smaller lot sizes permitted only if they are bundled, incorporate a rural plat overlay with specified deed restrictions, or are clustered (Stan then proceeded to explain the concepts of lot bundling, plat overlay and clustering).
2. The CPCAC feels that agricultural districts, combined with conservation easements, are an attractive alternative for preserving prime agricultural land. The key concern, however, is how the purchase of these easements is funded. We are concerned that the broader community is unwilling to provide the necessary resources. We therefore recommend that the MAPC review financing alternatives to determine the feasibility of these programs.
3. The majority of the Committee was strongly opposed to doing a study related to the costs of rural development. However, the CPCAC supports the Metropolitan Area Planning Department in its continued efforts to monitor development trends, key indicators of change and related issues.
4. The CPCAC also expressed strong support for the overriding principles that land use policies should put a high priority on respecting private property rights, while at the same time requiring those property owners to be accountable for the effects and impacts of their land use decisions on their neighbors and the community as a whole.

Stan then concluded his presentation and welcomed comments from the MAPC members.

MCKAY "Are there any questions? Mr. Warren."

WARREN "I have a couple of questions but, having been on this board and studied these issues, I know how much time you have put into this. I just want to express my appreciation for everything that that Committee has done. I think you have done an outstanding job in reflecting those values that some of us here hold near and dear, and I know you spent a lot of time doing this and I want to say thank you for that.

In your presentation having to do with either the bundled or the overlay concepts in those rural districts I would take it that as a condition of platting a requirement would be made that there would be an irrevocable petition filed at the time so that as soon as services became available they would be triggered by that irrevocable petition that was filed maybe 10 years ago."

LONGHOFER "That's exactly the idea. Now what specifically has to be done and written to make that happen, that's where we had to defer to the expertise of this body and certainly then to attorneys to make sure that it is all going to be binding in the future, but that is the idea."

WARREN "That was clearly the intent of this Committee to have some type of irrevocable petition that would trigger the instillation of those services so that we wouldn't have to fight with the property owners."

LONGHOFER "That is exactly right, and that would be explicitly known up front so that the property owner had no reason to be surprised or have no moral ground to stand on to fight it in the future. They know it, it was there, and it was explicit."

WARREN "Right and it runs with the land. In your cluster concept what would trigger further urbanization of some of those open space areas that we have left out, that we left open space, and set aside?"

LONGHOFER "I think you can imagine two different kinds of cluster developments. One would be the kind that was displayed in the diagram that we saw before. Now I'm going to speak to my personal impression here and it is to not something we discussed in depth as a Committee. I think that in that type of case, further urbanizations probably would not happen but that the open space would become either public or private park space or preserved for a green space within the community. The alternative type of development; which we thought to be really feasible for the technique of preserving prime Agricultural land and preserving contiguous tracts of farmland would be where the development was clustered in a corner of the larger tract. In that case it becomes very clear, you have all these things set up with an urban level density in the corner, this other land is open for development once urban services become available. Now the landowner can now go sell that land to a developer, and the land can be developed at the higher density. What creates the boundaries for future urban development is the piece here and piece there that starts to create a holdout problem among the landowners. Now you have a contiguous tract say of 30-acres out of 40-acre block that is owned by one landowner where development becomes feasible."

WARREN "Again, I would like to say that you have made an excellent presentation and I want to thank you for what you have done."

LONGHOFER "Thank you!"

BISHOP "I would like to ask about the third goal. As I recall, I think it was about July 11, 2000 when; I'm not sure about the County but at least when the City Council passed the Comprehensive Plan along with those three goals for the Committee. I think the third goal was originally different."

LONGHOFER "That is absolutely correct."

BISHOP "As you said, that goal was changed as the group began to meet. I am curious as to how that change came about."

LONGHOFER "Sure, our first meeting was just a get together, an introductory meeting, where we met everyone discussed what our charges were and given a bunch of homework assignments to take home and read. When we came back for our second meeting, we reviewed that third goal. I think I have it written down here, paraphrased slightly "to evaluate how Wichita and Sedgwick County finance community development in the urban edges and rural area of the county and investigate whether the cost of growth are equitable distributed". And as apart of that task if you recall there was a request for proposals that was set out for doing essentially a fiscal impact study of periphery growth in the urban areas, and the relative cost and the burden sharing of that growth. So, our task was to look at the output of that fiscal impact study and then provide some input to the elected bodies on what was brought back by the consulting report. At our second meeting, one of the things that were sent out to us was the request for proposals so that we knew what we were going to be looking at. Several members of the elected body members, members of the County Commission and City Council that were on our body, expressed concern that the request for proposals didn't match up with what they originally thought the purpose of the study was going to be. They had discussion back and forth, it was something that we just said, wait a minute, this is beyond our scope, the elected bodies need to get together and decide what it is you want, what it is you don't want. They took it back and in meetings with those groups, this alternative third goal was put together. I think the discussion was they did not want to pursue that request for proposals."

BISHOP "My question is, was that change done in a formal setting, in a public meeting for instance at the city council or county commission meeting?"

LONGHOFER "I couldn't answer that question. I know what forums I was involved with, but I don't know what forums the elected officials were involved in."

BISHOP "I am just curious, it is a legal nicety and I'm sure the law departments for either body would keep them in fine form, so probably it is legally accurate, but I wonder if the original charge was done at a public meeting and in the city

council minutes. I just wonder if it wouldn't have been better in the spirit of law if both of those also conducted their change of that charge."

LONGHOFFER "I can't speak to that, we simply accepted the charges that were given. I will state in this third charge as it came about, when it was clear that the elected bodies were not interested in pursuing and paying for a consulting study, then the third charge that we were given didn't make a lot of sense, because it was revolving around that consultant study. So, I did offer to the members of the elected body alternative language that they then, through discussion, found acceptable. How they went through that and what process to formalize, that I cannot say, I venture not to speak on that."

MICHAELIS "Mr. McKay."

MCKAY "To answer part of the question, I think the City Officials that were picked by their peers to be on this didn't want to pay for that study. Isn't that right Marvin?"

KROUT "They didn't want to pay for the study and they had concerns."

MCKAY "We had a stack of authority studies and one more was going to do what. I think they made the consensus among themselves; the Committee was kind of out of it as to whether they were going to do it or not going to do it. There was concern from the Committee as to why do another study and from that, they within themselves took it back to their bodies. I imagine they talked with their colleague before they came back and said they didn't want to do it. I would think, don't you?"

KROUT "There were informal discussions; to my knowledge, there weren't any formal discussion. Neither the City Council nor the County Commission formally changed their directions to the Committee, but the people who were represented on the Committee, represented that this was the desire of the conscience of their boards."

MCKAY "Also, Margalee Wright, who is the facilitator sitting here in the middle of those three ladies, was also very responsible for this Committee."

LONGHOFFER "I am very sorry Margalee. I had in my notes to recognize you when I did the composition of the Committee, then I was late, I rushed through the composition and I am sorry. Margalee Wright was really essential, and when I talked about everything we have done on this Committee in terms of finding broad consciences, it was through Margalee efforts in helping us facilitate. Margalee was our facilitator, and in helping us focus our efforts in on finding points of common agreements, Margalee was an invaluable asset to our Committee. Please forgive me. Thank you John."

MCKAY "Also if you remember our Comprehensive Plan, one of the things we did was put the overlay in at the County, for the whole County. This was just to more or less how it is going to work if we do that. These are just some of the ideas, because that is already in the Comprehensive Plan, the overlay, how are we going to do that?"

LONGHOFFER "One of our concerns was whether or not it was appropriate to have these overlays throughout the entire County. I think the view of our Committee was "yeah that is appropriate, even though okay you know out near Cheney it is going to be a long, long time before we are going to have any urban level services being provided. That's okay; this actually helps serve the added purpose of helping to maintain continuous tracks of farmland. So actually, the same technique benefits both the urban development side of things and the rural preservation side of things, which made it a very attractive tool to us. Did we fully answer your question? I think part of that has to be deferred to the elected body."

BISHOP "One further comment, I regard this as an opportunity lost. I think public decision making certainly by the governing body needs to be based on facts and careful research and not on supposition, I think at this point we have too much supposition."

LONGHOFFER "I am very sorry that you feel that way. Let me reiterate one more time, what I really think is sort of the unspoken charge that our Committee had which was to find a point of common ground. To try to rebuild bridges in the community and demonstrate areas where we all really say "you know that we may have our differences but we can agree on these things". At that level I think that was a very important element of what we did and I feel very proud of the work that the Committee did and I think it is important to demonstrate that we have a lot more common ground as a community than we do differences. As important as those differences are we do have a lot of common ground."

MICHAELIS "Any further question of Mr. Longhofer?"

2. Approval of minutes for March 22, 2001

GAROFALO "I have a couple of corrections. I will give them to the secretary."

MOTION: That the Metropolitan Area Planning Commission approve the minutes for the March 22, 2001 meeting as amended.

MCKAY moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

MICHAELIS "Are there any items that need to be pulled from the subdivision committee recommendations? Need to pull 3/2. Okay. Is there anybody in the audience to speak on any of the items 3/1, and 3/3 through 3/7? Okay."

3. Subdivision Committee items 3/1, 3/3, 3/5, 3/6, and 3/7 were approved subject to the Subdivision Committee recommendations **COULTER** moved, **JOHNSON** seconded the motion, and it carried unanimously (13-0).

3/1. **SUB2001-13**- One-step final plat of NW MAIN PUMP STATION ADDITION, located on the Southeast corner of 135th Street West and 21st Street North.

- A. A petition for extension of City water and sanitary services is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A guarantee for drainage improvements is required.
- D. In accordance with the Conditional Use site plan, the plat proposes a joint access along 21st St. North. The Protective Overlay permitted one opening along 135th St. West if Lot 2 was to be zoned LC, and three openings along 135th St. West if Lot 2 was intended for a government service use. As the plat proposes three openings, Lot 2 will remain zoned SF-6 and allow for government services.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. The access easements platted for the benefit of Lot 3 needs to be established by separate instrument.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. County Engineering needs to comment on improvements to perimeter streets. The Subdivision Regulations require paved access between the nearest paved segment and the entrance to the plat. The applicant shall submit a guarantee for the paving of 135th St. West to the south line of the plat.
- J. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #80) and its special conditions for development on this property.
- K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind

erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

3/3. SUB2001-34 – Final Plat of BELIEVER'S SOUTHERN BAPTIST CHURCH ADDITION, located on the south side of 21st Street North and west of 135th Street West.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. A commercial facilities request form is needed.
- B. City Engineering has required a petition for future extension of City water and sanitary sewer services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- E. County Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
- F. The plat proposes two access openings along 21st St. North. Access controls along 135th St. West need to be dedicated. The final plat shall reference the access controls in the plat's text. County Engineering has approved two access openings along 21st Street, including one joint opening with the property to the west.
- G. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. The Subdivision Committee has required a 35-foot contingent street dedication along the south 35 feet of the plat to improve access for future lots.

The requested contingent street dedication has been platted.

- I. County Engineering requests that the 50-ft KGE easement should be denoted as a utility easement.
- J. The applicant is advised that if platted, the building setbacks must be 35 feet to conform with the Zoning setback standard for County section line roads.
- K. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- L. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES StormWater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

3/4. SUB2001-33 – Final Plat of WESTPARK SECOND ADDITION, located on the west side of west Street and south of Harry.

- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for guarantees or easements. A drainage guarantee is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved; however modifications are needed.
- D. The plat proposes access control except for one opening along West Street. Traffic Engineering needs to comment on the access controls; particularly any requirements specifying the location of the proposed opening. Traffic Engineering has required the access opening to be located along the south line of the plat. The final plat tracing shall limit the south opening to 30-feet from the property line, and reference the access controls in the plat's text.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The applicant needs to verify the location of the pipeline easement indicated in the platting binder. If this easement is on this site, it should either be shown or verification provided that it is off-site or has been released.
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who

acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

- 3/5. SUB2001-41 – One-Step final Plat of OSCO ADDITION, located on the southwest corner of Harry and Hillside.**
- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for guarantees or easements. No guarantees or easements are needed.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
 - C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
 - D. Traffic Engineering needs to comment on the access controls and the need for locating access openings along property lines to allow for cross-lot access with adjoining commercial properties. The plat proposes one access opening along Harry and two access openings along Hillside. Distances should be shown for all segments of access control. In accordance with the Subdivision regulations, any access openings located within 250 feet of the intersection (measured from curb) of Harry and Hillside are limited to right-turns only, and shall be referenced on the face of the plat; or a guarantee provided for the future construction of a raised medial. The final plat shall reference the access controls in the plat's text. Traffic Engineering has requested that the complete access control along Harry and Hillside be extended to the north and east lines of the plat, respectively. The Subdivision Committee has approved cross-lot access for the benefit of the abutting properties to the south and west at no additional cost to the Applicant.
 - E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
 - F. The plat's text needs to be revised to reference "a Lot and Block".
 - G. City Engineering has requested that the proposed contingent right-of-way dedication at the intersection be revised to an outright dedication. A minor street privilege permit will be issued if the structure is remaining on the site.
 - H. The Applicant is advised that in regard to the building and portion of the additional buildings within the contingent dedications and within the building setback, that while such areas of the existing structures may be retained, no enlargement of the buildings in such areas will be permitted and if removed, all subsequent rebuilding shall observe building setbacks.
 - I. The plat's text needs to be revised to reference access controls as "hereby dedicated to the appropriate governing body".
 - J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.

- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

3/6. SUB2001-39 – One-step final plat of REDDI ADDITION, located on the north side of Second Street, east of Greenwich Road.

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lot being platted. This guarantee shall be with the City for service through the Four Mile Creek sanitary sewer system.
- B. The applicant shall guarantee the extension of public water to serve the lot being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is needed. An off-site drainage agreement is required.
- E. The applicant shall guarantee the installation of Second Street to a roadway width of 31-ft back of curb to back of curb.
- F. The applicant shall provide a No Protest Agreement for future improvements to Zelta.
- G. The paving guarantee shall include the installation of an "L" or "T" type turnaround at the terminus of Second Street at the plat's east line.
- H. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- I. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described

in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

3/7. SUB2001-42 – One-Step Final Plat of SMITHMOOR TENTH ADDITION, located south of Harry, on the west side of Greenwich Road.

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the City for service through the Four Mile Creek sanitary sewer system.
- B. The applicant shall guarantee the extension of public water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved; although revisions are needed.
- E. The plat should dedicate complete access control along Greenwich. The final plat tracing shall reference the access controls in the plat's text.
- F. The applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on one side of the through streets.
- G. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The County Commissioners signature block may be omitted as this plat is located within the City of Wichita.
- K. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 10, 27, 66, 86 in Block 1; and Lots 2, 16 and 19 in Block 2. The Subdivision Regulations state that the maximum depth

of all residential lots shall not exceed 2.5 times the width. The waiver has been approved.

- L. The City Fire Department needs to comment on the plat's street names. The street names are acceptable.
- M. Various utility, wall and drainage easements that are labelled need to be platted.
- O. The wall easement needs to be referenced in the plat's text.
- P. The reference in the plat's text regarding temporary cul-de-sac easements is not portrayed on the drawing, and may be omitted.
- Q. The reference in the plat's text to "repairing public street" needs to be omitted.
- R. The applicant has platted 20-ft building setbacks which represents an adjustment of the Zoning Code standard of 25 feet for the SF-6, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. The Subdivision Committee recommends that the setback provisions be adjusted.
- S. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- T. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- U. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- V. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Y. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- EE. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

3/2. SUB200-109 – Final Plat of EAGLE'S LANDING AT NORTH OLIVIER ADDITION, located on the southwest corner of 45th Street North and Oliver.

MICHAELIS "This item is associated with Agenda Item No. 18, ZON2001-00029 and will be taken at that time."

JERRY MICHAELIS, Acting Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

I would like to remind the members of the Planning Commission that our bylaws require you to disclose any ex-parte contacts that you may have had regarding any of the applications on today's agenda. So I would ask you to please remember to disclose the nature of any such contacts you have had before we open the hearing on each case, and what if any impact that information may have on your opinion of the request.

LONGNECKER "Just a blanket statement. These three Vacation cases 16, 17 and 19 were heard and considered for recommendation by the Subdivision Committee on April 26. On all three of these items, the request to vacate was recommended with the noted conditions in your packets. Between the Subdivision Committee meeting on April 26 and today, there have been no changes to these conditions.

This is a public hearing, so if there is anyone wishing to speak for or against these items is welcome to do so, but in staff's case, again, there have been no changes to the Subdivision Committee recommendations, as is noted in your packet. Are there any questions of staff?"

MICHAELIS "Okay, so essentially, we can take 4/1 through 4/3 in one motion. Before we do that, I would like to ask if there is anyone in the audience that wishes to speak on either of these items. Seeing none, I will bring it back to the Commission."

MOTION: That the Planning Commission recommend to the governing body that the requests be approved. **MCKAY** moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

4/1. VAC2001-16 – Request to vacate a 50-foot Taxiway Easement, located southwest of Harry Street/Eisenhower Avenue.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 20, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described 50-ft taxiway easement, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the 50-ft taxiway easement described in the petition should be approved subject to the following conditions.
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

4/2. VAC2001-17 – Request to vacate a portion of a drainage easement, located southeast of the Legion Avenue/Bella Road intersection.

The applicant is requesting consideration to vacate a portion of a 20-ft drainage easement. The easement was not dedicated or shown on the plat, but was recorded on a separate instrument. Approximately 3-ft – 3.9-ft of the north end of the applicant's house currently encroaches on the easement. The applicant is requesting that the south 6ft (running the length of the easement) of the easement be vacated. The 6-ft the applicant is requesting would leave the house clear of the easement by 1-ft – 1.9 ft. There is a 4-ft drainpipe in the easement. The 6-ft the applicant is requesting would place the drainpipe approximately 2-ft from the south edge of the easement. The easement and the drain pipe end at the Little Arkansas River.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 20, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- C. Therefore, the vacation of a portion of a 20-ft drainage easement described in the petition should be approved subject to the following conditions.
1. The applicant shall dedicate the south 6ft of the North 11-ft of Lot 141, Van View Add., Sedgwick County, Kansas as part of a 20-ft drainage easement.
 2. The applicant shall verify, via a survey, the location of the 4-ft drainage pipe in the 20-ft easement.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall dedicate the south 6-ft of the North 11-ft of Lot 141, Van View Add., Sedgwick County, Kansas as part of a 20-ft drainage easement.
2. The applicant shall verify, via a survey, the location of the 4-ft drainage pipe in the 20-ft easement.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

4/3. VAC2001-19 – Request to vacate two utility easements, one drainage easement and a portion of a reserve, located northwest of the 29th Street North/Ridge Road intersection.

The applicant is requesting consideration to vacate two 10-ft utility easements (one running between Lots 43 & 44 and the other between Lots 51 & 52, Blk 4), a 15-ft drainage easement (between Lots 38 & 39) and a portion of Reserve "E". This portion of reserve "E" is platted for irrigation systems, landscaping, lakes (retention & detention), drainage structures, walks, docks and utilities confined to easements. The property as shown on the exhibit is not developed. The south section of this subdivision is developed with single-family houses. The applicant proposes to create fewer, larger lots if the vacations are recommended.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
4. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 20, 2001, which was at least 20 days prior to this public hearing.
 5. That no private rights will be injured or endangered by the vacation of the above-described utility, drainage easements & a portion of reserve and the public will suffer no loss or inconvenience thereby.
 6. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- C. Therefore, the vacation of utility, drainage easements & a portion of reserve described in the petition should be approved subject to the following conditions.
1. Applicant will submit a revised drainage plan, for review by Staff.
 2. Applicant will provide substitute easements for utilities.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 4. Applicant must provide letter stating that all homeowners in the Association agree to vacate a portion Reserve "E", per exhibit, this is currently controlled/owned by the applicant.
 5. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Applicant will submit a revised drainage plan, for review by Staff.
2. Applicant will provide substitute easements for utilities.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. Applicant must provide letter stating that all homeowners in the Association agree to vacate a portion Reserve "E", per exhibit, this is currently controlled/owned by the applicant.
5. All improvements shall be according to City Standards.

ZONING:

5. **Case No. ZON2001-00017** – Jack D. & Leslie L. Hale (Owner); James M. & Mary Lou Voegeli (Contract Purchaser/Applicant) request zone change from "RR" Rural Residential to "OW" Office Warehouse on property described as:

A tract of land in the Northeast Quarter of Section 20, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Commencing at the Northeast corner of said Northeast Quarter; thence North 90 degrees 00'00" West along the North line of said Northeast Quarter for 1663.56 feet to the point of beginning; thence South 00 degrees 46'55" East for 843.71 feet; thence North 90 degrees 00'00" West for 258.17 feet; thence North 00 Degrees 46'55" West for 843.71 feet to the North line of said Northeast Quarter; thence South 90 degrees 00'00" East 258.17 feet to the point of beginning, except the North 30 feet for street condemned in District Court Case C-8172-66. Generally located south of 53rd Street North and west of Tyler.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "RR" Rural Residential to "OW" Office Warehouse on a 4.8 acre unplatted tract located south of 53rd Street North and west of Tyler. The property is located within the zoning area of influence for the City of Maize.

The site is currently developed with two agricultural buildings. The applicant proposes to redevelop the site with a small office and an attached garage for approximately 12 trucks for use by the applicant's contractor business. The Unified Zoning Code defines the proposed use as "Construction Sales and Service" and first permits it in the "OW" Office Warehouse district when the business is not primarily a retail establishment.

The surrounding area is rural in character. The property in all directions surrounding the site is zoned "RR" Rural Residential and is used for agriculture with the exception of manufactured homes on large lots to the north. The nearest non-residential or non-agricultural land uses are sand and gravel extraction located approximately 1/3 of a mile east of the site and a non-conforming manufacturing business located approximately 1 mile south of the site. The nearest urban area is the City of Maize, which is located approximately 2/3 of a mile west of the site.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	Manufactured homes on large lots
SOUTH: "RR"	Agriculture
EAST: "RR"	Agriculture
WEST: "RR"	Agriculture

PUBLIC SERVICES: The site has access to 53rd Street North, a two-lane County arterial street with traffic volumes of approximately 2,000 vehicles per day. The 2030 Transportation Plan projects that traffic volumes on 53rd Street North will increase to approximately 5,100 vehicles per day. Municipal water and sanitary sewer service are not available to the site; therefore, on-site water and sanitary sewer service would need to be provided. The property is located within the Equus Beds Groundwater Management District in area where ground water is likely to be within 10 feet of the ground surface.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development. Rural areas consist of land outside the 30 year Wichita urban service area and small city growth areas. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Goals, Objectives, and Strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use Commercial/Office section contains a strategy (III.B4) that states, "in those portions of rural unincorporated Sedgwick County outside the projected growth area, limit commercial development to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas." The Land Use-Industrial section contains a strategy (IV.A2) that states, "in those portions of rural unincorporated Sedgwick County outside the projected urban growth area, allow industrial development only when it is agriculturally oriented, dependent upon a natural resource, or, as part of an appropriate expansion of an existing industrial area. The requested zone change is not consistent the Land Use Guide or the Goals, Objectives, and Strategies of the Comprehensive Plan. The Amended Comprehensive Development Plan 1980-2000 for the City of Maize does not address the subject property. However, the City of Maize is currently making major revisions to their comprehensive plan, and those revisions may address the subject property in the future.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding land is zoned "RR" Rural Residential and is used for agriculture or large lot residential uses. The area is rural in character.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which restricts the site to very large lot residential or agricultural uses. Only two commercial/industrial uses are permitted by right in the "RR" district, those being a kennel for 10 dogs or less and an asphalt plant at the site of a road construction project. Given the lack of public services and its distance from urban areas, the subject property is suitably restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Granting the requested "OW" Office Warehouse zoning will set a precedent for this type of zoning at this rural location. In fact, planning staff has already been contacted by another contractor's business considering relocating in this vicinity if the

requested zone change is approved. The "OW" district permits a wide variety of intense commercial and industrial uses that would not be appropriate at this location.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change is not consistent with the Wichita-Sedgwick County Comprehensive Plan policies and strategy guidelines. The requested use is not agriculturally oriented, does not provide necessary convenience services to residents in the immediate area, and is not dependent upon a natural resource. According to the Wichita-Sedgwick County Comprehensive Plan recommendations, the requested use should be located within the urban service area of a city. If future revisions to the Comprehensive Plan for the City of Maize indicate that the subject property should be included in their urban service area, then the requested use may be appropriate at that time if the property meets the other criteria for a commercial/industrial use.
5. Impact of the proposed development on community facilities: The requested change would introduce a commercial/industrial land use to an area lacking appropriate community facilities. Fire and crime protection services cannot be adequately provided to a commercial/industrial business at this remote location. On-site water and sanitary sewer service for a commercial/industrial business at this location would lead to a significant potential for groundwater pollution since the site is located within the Equus Beds Groundwater Management District in a area where ground water is likely to be within 10 feet of the ground surface.

KNEBEL "This site for this request is 4.8 acres of un-platted land located south of 53rd Street North and west of Tyler. You can see on the screen that the site is currently developed with a couple of agricultural buildings. The applicant is proposing to redevelop this site. I guess the intention is to remove (indicating) this barn on the site, leave this particular building (indicating), and to construct a metal building for the storage of vehicles and for a small office.

The area surrounding this application is rural in character, and most of the land to the south, west and east is still used for agriculture. You have some manufactured homes on large lots to the north. There is a single-family residence here (indicating) on a large lot, and then there is some sand extraction to the northeast. There is some agriculture to the east and to the south, and although it is not really visible, about a mile to the south is a non-conforming industrial business that has existed prior to the county adopting zoning in that particular locale.

The City of Maize is located to the west and to the southwest approximately 2/3 of a mile to a mile depending upon whether you are going straight west or southwest. The site does not currently have water or sewer service available, so on-site services would be required. The site is located within the Equus Beds Groundwater Management district and is indicated on the County Engineer's map as an area that is likely to have groundwater within 10 feet of the surface.

The Comprehensive Plan indicates this area as appropriate for rural development. The Comprehensive Plan provides a couple of strategies regarding either commercial, office, or industrial development in rural locales. Essentially what it indicates is that those types of uses, commercial and office, or an industrial use should be located in areas where there are public services either provided currently or planned to be provided through an urban service area as indicated in the Comprehensive Plan for either Wichita or one of the small cities.

Absent that, if it is outside those areas and in an area that is indicated to be rural for the long term that the use should be limited to those things that are agriculturally oriented that provide convenient services to nearby residences that are located at a highway interchange and provide services to the traveling public or those uses that are dependent upon a natural resource, such as the extraction of sand or oil or something along those lines.

The City of Maize is currently working on updating their Comprehensive Plan. They have not indicated yet—and I don't think they have made the decision themselves—the intended use. There is an attachment that I handed out a minute ago regarding the findings that Maize made on this particular case when they heard it last night. In that findings statement there is a statement that the Planning Commission sees the development of commercial along 53rd with housing behind the commercial. I don't know that that is anything that is within their adopted plan, but that was one of the things that they discussed at the hearing last night.

The Planning staff is recommending that this case be denied. We are basing this on the findings that are listed on Page 3 and 4. I will go through a couple of those that we think are the most important. The largest one being that this is in a rural area that is identified in the Comprehensive Plan as being rural. The strategies in the Comprehensive Plan indicate that the commercial and office and industrial uses in rural areas should be limited. There are no services in terms of water or sewer provided in this particular area. It is located in an area where groundwater contamination is a concern.

As I mentioned before, the Maize Planning Commission did hear this last night and unanimously recommended it for approval. Their findings are listed on a separate page. I will go through those if anyone would like, but otherwise I will just stand for questions."

PLATT "Did the Maize Planning Commission, when they made the statement that they see development of commercial along 53rd Street specifically comment that this size and shape of a lot is considered to be along 53rd Street?"

KNEBEL "Their statements were not that specific, no. I do believe that the City Administrator from Maize is here. You might ask that question of her. Maybe she can give a better answer than I can."

MICHAELIS "Are there any other questions of staff?"

WARREN "The lot is not being subdivided, is it now a lot in title recorded of record?"

KNEBEL "It is unplatted at this point, yes."

WARREN "But it is recorded of record as it is described here?"

KNEBEL "Yeah, that's right."

WARREN "So it is not a subdivision."

KNEBEL "Well, were this to be approved and they were to build a commercial building on it, it would need to be platted according to the Building Code."

WARREN "I understand that, but what I am saying is that they are not selling office lots, are they?"

KNEBEL "If you look at it, it looks like it has already been sold off before in that configuration."

WARREN "Okay."

MICHAELIS "Are there further questions of staff? Thank you, Scott. May we hear from the applicant, please?"

MARY LOU VOEGELI "I live in Colwich, Kansas. We have a concrete flatwork construction company. We currently operate out of our house. We have 45 employees or so, and about a dozen trucks or more on the road. We would just like to locate in another area instead of working out of our house.

This is very close to the K-96 Highway Interchange. I don't know exactly how close, maybe a third of a mile or something like that."

MICHAELIS "Are there any questions of the applicant?"

WARREN "Would you be willing to—say where you are going to concentrate a certain area to the storage of trucks and equipment, Bobcats, I suppose and things like that—would you be willing to screen those areas?"

VOEGELI "We were going to build a metal building to put those in."

WARREN "So everything would be inside of a building and you wouldn't have anything outside?"

VOEGELI "Uh huh. Nothing outside that I would know of. Because on the north end of the lot there is a building that is open to the south, and we would put form lumber and miscellaneous things like that in there. But the equipment and trucks and a small office would all be in the building."

MICHAELIS "Are there any further questions?"

JOHNSON "You said you have 45 employees, do they all show up at this site?"

VOEGELI "That is what we would like to have—currently they don't. They take their trucks home at night and then just meet on the job. We would like to get them consolidated. It would help with the paperwork, it would help with the safety meetings and maintenance of the trucks. We don't plan on servicing the trucks at that location. We have two or three mechanic shops that we use. We wouldn't be storing any gasoline."

JOHNSON "If you had 45 of them show up, they would leave their vehicles there and take your trucks?"

VOEGELI "Uh, huh. But we don't plan on having all 45 of them show up every day."

MICHAELIS "All right. Thank you, Ms. Voegeli. Is there anyone else in the audience wishing to speak on this item? Anyone to speak in favor? Please come forward."

CAROL BLOODWORTH "I live at 107 Washington in Cheney, I am the City Administrator at Maize. I wanted to come to answer your questions about what the Planning Commission visited about last night and what their thoughts on this were. One of the things that was discussed at length last night was that within the past 12 months you have sent to us, with your recommendation, two applications for sand and gravel extraction permits, which have storage of fuel that have a much greater possibility of contamination of ground water than an office warehouse use that would have one bathroom flushes occasionally. We see, with the development that is going on at 21st and Maize Road, a great deal more of traffic that will be generated off of K-96 onto Maize Road, going that direction, and the development of commercial of various sorts around that intersection that would service those kinds of things.

As I stated, what we talked about last night is the numbers of these kinds of uses that are up and down 53rd Street North already. The Planning Commission did not see that this was incompatible with uses that were already there. One of the

things that most small communities worry about as much as anything is the numbers of large-lot residential areas surrounding their city limits, making economical expansion impossible.

One of the things that isn't mentioned on here is the location of the City's wastewater treatment plant. It is north and east of K-96 Highway; north of the intersection of 53rd Street north and Maize Road, so it is already on the other side of K-96. If it became necessary when the 10 years is up for the sand and gravel extraction, the proposal was to put housing around those sand pits. At that time, wastewater would be a very important issue. And at that time is when the Maize City Council will look about providing services in that area.

There are flood plain issues in that area. There have been a lot of problems there, but sooner or later, if you develop residential around those sandpits that you already recommended to be done, then that is probably going to have to happen by somebody. It will probably be the City of Maize. They looked at this and looked at what the use was actually going to be, and what traffic it was going to generate, and what possibilities of contamination there might be, and they did not see that it was an incompatible use in that area. Are there any questions?"

MICHAELIS "Are there any questions of the speaker?"

PLATT "Yes, I will ask the question that I asked before. Now, did the Maize Planning Commission then decide that they would put commercial all along 53rd Street to the depth of this particular plat?"

BLOODWORTH "Probably it would not be that depth, and they aren't planning on using that entire depth. The back of that slopes away and is wet. The front of it drains toward 53rd Street and the back of that lot drains toward the Slough. My understanding is that this is the size and shape of that lot that they are able to purchase, not that they plan to use the entire area for that use."

GAROFALO "Ma'am, when the Maize Planning Commission was talking about commercial—this is commercial, but it is a heavier use than commercial. It is not retail or a convenience store, or..."

BLOODWORTH "At the Planning Commission meeting, they had Scott read them the list of the uses that were allowable under Office Warehouse, and they were not concerned about the list of even the manufacturing uses that were listed under Office Warehouse. They are really quite limited as far as the kind of pollutants or those kinds of things that would be a problem.

The City of Maize's zoning areas are slightly different than what the county definitions are for those things. But Scott was kind enough to go through the whole list for the Planning Commission last night."

GAROFALO "So they are taking a real broad look when they are talking about commercial?"

BLOODWORTH "Yes, sir."

GAROFALO "And that includes just about anything."

BLOODWORTH "Maize has Business 1; Business 2 and Industrial—those are its only three designations."

MICHAELIS "Are there any questions of the speaker? Thank you, Ma'am. Is there anyone else wishing to speak in favor of this item? If not, is there anyone wishing to speak in opposition?"

MIKE NAEGELE "I live at 9220 West 53rd Street North. We came here in defense of a dream that we had in the second quarter of 1996. We found an 80-acre tract and my dad, my brothers and I went in on it; took 20 acres and we had a dream of building homes. We researched the surrounding areas and knew what we had when we bought this land. In one year from this August, I have plans to build a 3,500 square foot home right across the street from that land that is in question. It is only 200 feet from that land. So we do have a major concern here.

I just want to say that I congratulate each and every one of you on this board that researched this because every issue that you touched on, I have notes here that we were going to ask the same questions. We had the same concerns—the traffic, that this was going to set a precedent as far as other acreages sold off. The owner currently said that he has a list a mile high of people that are interested in that land. This is just one thing that we were really concerned about—the area, because we love the area—we love the school district, and we were just really concerned and felt threatened about the aspect of a 5 acre plot sold here and then another one coming in and another one coming in when west of Maize there is this type of activity already. I am sure that there could be some land bought west of Maize that would be more suitable for this.

But again, I appreciate everybody's efforts on this. And everything that you guys had on this report as far as denying it, your reasons were exactly what my dad and I put together in the last two days. That is pretty much all I have to say. Oh. I would like to go on to say that the Maize City Council had a meeting yesterday. We went to the one that was dated on the 3rd, and it was cancelled. I guess I am irritated or upset with the fact that we weren't notified about the meeting last night and we were unable to attend it."

MICHAELIS "Just as a point of clarification, Mr. Naegele, the comments and everything that you referring to were prepared by the staff, not by us."

NAEGELE "Oh, I'm sorry! Okay. I was under the impression that it was you. Okay. Then may I touch on a couple of those items real quick?"

MICHAELIS "You have 2-1/2 minutes left."

NAEGELE "Something I have already touched on was the fact that if someone got in there and then there was a repeated effort of someone else wanting to buy another 5 acres as opposed to going on in that aspect. The amount of traffic that was going to be imposed in there, the amount of deciding to put in your septic system and your water system, I think the Code specifies that it is supposed to be 5 acres, and there would be a considerable amount of build-up and stuff, so adhering the latest, to today's build-ups and stuff—but there is just a lot in the staff report that really touched on the same thing. I just want to say that we would much rather that this didn't happen."

MICHAELIS "Are there any questions?"

JOHNSON "Sir, you stated that you felt like there was something on 53rd west of Maize that would be more appropriate, so you are saying that a 5-acre tract like this west of Maize is better than one east of Maize?"

NAEGELE "Yes. There is a place like an agricultural business where they have a lot of equipment sitting out. That's just between Colwich and Maize currently. There is equipment outside and great access to all of the highways as opposed to what they are looking at now. In between, there are some lots right there in Maize that have a lot of equipment and stuff parked on it. We were just trying to, if that is the way the west part of Maize is going with some of these lots already there, why not develop that that way and keep east of Maize more for residential lots? We just planted 400 pine trees 2 weeks ago to upgrade the property. We just have a major concern here as far as what could be going in on the south side of the road."

MICHAELIS "Are there any further questions of the speaker? Thank you, sir. Is there anyone else in the audience wishing to speak in opposition to this item? Please come forward."

KEN NAEGELE "I live right across the road from the property that is of concern here. My biggest issue on this, other than everything that has already been said is the noise issue. I work third shift and sleep during the day. This is a real peaceful place right now, and I don't feel that this is going to be a very good thing to have all of these pick-ups and stuff running back and forth there."

As far as the site of it, that barn was built in 1901 I think, and it is a beautiful site to look out there and see that. When you tear that stuff down and start building Morton buildings and stuff like that, it is kind of an eyesore to me. I don't know....I am kind of concerned about property values and everything. That is about all I have to say."

MICHAELIS "Are there any questions?"

HENTZEN "Do you live in the same residence as the other speaker?"

NAEGELE "Not in the same residence. It is on the same 80 acres, across the road. I have my own 20 acres."

Barfield arrived at 1:20 p.m.

MICHAELIS "Are there any further questions of the speaker? Thank you, sir. Is there anyone else in the audience wishing to speak in opposition to this item? The applicant has two minutes for rebuttal. Ms. Voegeli, do you have anything you want to respond to that they said? You are welcome to, but you do not have to. Okay."

MOTION: Having considered the factors as contained in Policy Statement No. 10; and taking into consideration that everything is going to be kept inside, and the fact that Office Warehouse has a stringent screening requirement if there was to be something outside, and in that the Maize Planning Commission has given a unanimous approval, I move that we recommend to the governing body that the request be approved, subject to platting within one year.

WARREN moved, **HENTZEN** seconded the motion.

MICHAELIS "Is there any discussion?"

BISHOP "Being the new kid on the block I hate to speak up so soon, but I am a little bit troubled by the fact that the neighbors did not have an opportunity to know about the Planning Commission meeting in Maize. I assume that they have some notification processes that they went through. They went to the trouble of attending one meeting which was cancelled, and then they were not notified of the meeting where a unanimous decision for approval was made. I am not going to be able to support this at this point, partly based on that. I think at least a deferral in order for the neighbors to have an opportunity to give their opinion would be in order."

PLATT "I would like to ask the maker of the motion if the motion includes the condition that no vehicles could be allowed to park outside?"

WARREN "I think that would have to have some kind of a Protective Overlay to enforce, wouldn't it?"

PLATT "Would you put that on?"

WARREN "A Protective Overlay? I don't know that I want to do that. I do think, and that is the reason I asked her if she would be willing to screen. It is not really a question of whether she would be willing to screen, it would be a condition of her storing outside. She would have to screen it in that zone. So, I don't think I want to restrict that and say you can't ever store anything outside, knowing that if they did, they would have to screen it because that is a condition of that zone. I will leave the motion as it stands."

MICHAELIS "Are there any further comments?"

VOTE ON THE MOTION: The motion carried with 10 votes in favor and 3 in opposition (Platt, Garofalo and Bishop). Blake was not present.

KROUT "This case goes next to the County Commission. The applicant and all of those who testified today will be notified of the date of the County Commission hearing."

6. Case No. CON2001-00024 – Messiah Evangelical Lutheran Church, Wilson, Darnell, Mann, PA/Wes Darnell request a Conditional Use to allow a day care, general on property described as:

Lot 1, Block 1, Messiah Lutheran 2nd Addition to Wichita, Sedgwick County, Kansas. Located on the southwest corner of the 12th Street North-Ridge Road Intersection.

BILL LONGNECKER, Planning staff, Senior Planner, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting consideration for a Conditional Use to allow a "Day Care, General", facility on property zoned SF-6 Single Family Residential. The site (4.66 acres, Lot 1, Block 1, Messiah Lutheran 2nd Addition) is located southwest of the 12th St N and Ridge Road intersection. The applicant proposes to construct a 5,900 sqft building of which 5,666 sq-ft is designated for day care, the remaining square footage is kitchen. Ages of the children will range from 12 months to, but not including, kindergarten. The days of operation are Monday through Friday. The hours of operation for the day care are not set, but discussion indicates 7 AM to 6 PM. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows the proposed day care as a southern addition to the existing church (4,857 sq-ft). The proposed day care building has 3,507 sq-ft of playground attached to its south and west sides. The playground area is divided into abutting 2 sections. The largest is the preschool section (2,736 sq-ft), located on the south side of the proposed facility, with the smaller (771 sq-ft) toddler section on the west side of the proposed facility. The playground is shown with a 6-ft high wood fence around it. The playground hours will be from 8 AM to 6:30 PM. The site plan shows a new parking lot and ingress/egress on the northeast side of the buildings. The new parking lot combined with the existing parking, on the west side, provides a total of 40 spaces (with 2 handicapped lots), which exceeds the required parking of 14 spaces for the Day Care (9 staff + 54 kids = 14 spaces), as presented on the site plan. The applicant has verbally noted that there are 20-30 trees scattered throughout the 4.66-acre site.

Currently this site is developed as a church. The properties to the east, west, south and north are zoned SF-6 Single Family Residential and are developed with single family residential. The site is separated from the residence on the north by W 12th St. The site is separated from the residence on the west by N Brunswick Lane. The site is separated from the residence on the east by N Ridge Road. There are residences abutting the site on the south.

The proposed day care will have approximately 50- 60 children using the facility, thus meeting the Unified Zoning Code's (UZC) definition of a Day Care, general. The Unified Zoning Code requires a Conditional use for "Day Care, General" in all zoning districts. The expansion of the existing church with day care facility will trigger the landscaping, parking, and supplemental standards, per the Unified Zoning Code, for Day Care Centers as a Conditional Use.

CASE HISTORY: Messiah Lutheran 2nd Add was recorded in Sedgwick County 02-08-01.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-6 Single Family Residential	Residential
EAST:	SF-6 Single Family Residential	Residential
SOUTH:	SF-6 Single Family Residential	Residential
WEST:	SF-6 Single Family Residential	Residential

PUBLIC SERVICES: N Ridge Road is a minor arterial. Average Daily Trips (ADT) at the intersection of N Ridge Rd and W 13th St (2 blocks north of this location) is 14081 ADTs on the north side, 18576 ADTs on the south side, 15892 ADTs on the west side and 13275 ADTs on the east side. There is gas, water, sewer and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Low Density Residential. Low Density Residential includes single-family homes, zero lot line units, cluster subdivisions and planned developments with mixed housing. Schools, churches and similar uses can be located in this category. The Unified Zoning Code requires a Conditional Use for "Day Care, General", in "RR", "SF-20", "SF-10" and "SF-6" residential zoning districts, plus the "MH" and "GI" non-residential zoning districts.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED, with the following conditions.

1. The Day Care Center shall comply with all applicable local and state regulations, including the Supplementary Standards for Day Care Centers.
2. Development shall be substantially in conformance with the Site Plan and Landscape Plan.
3. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned SF-6 Single Family Residential. The immediate surrounding area is developed as single family residential.
2. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is unlikely as long as the church remains. If the church leaves, it is conceivable that the property could develop into residential. The 12th St – Ridge Rd intersection is a T, rather than a 4-way intersection, this makes the development of this site less attractive for commercial development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. The proposed development, as shown on the site plan, puts the development in the middle of the 4.66 acres thus providing open space between it and the existing residences.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for a Day Care, general, on "SF-6" Single Family Residential is a Conditional Use per the WSC Unified Zoning Code. The Comprehensive Plan sights the best use for this area as low density residential.
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.

LONGNECKER "This item is a Conditional Use request for a day care facility in 'SF-6' Single-Family Residential zoning. This is Day Care, general. The site is located at the southwest corner of 12th and North Ridge Road. The applicant has submitted a site plan, which shows the proposed 5,900 square foot day care facility, which is shown right here (indicating). It is attached to an existing church, which is approximately 4,800 square foot. The applicant is looking to have 50 to 60 children using the facility. The hours of operation have not been set yet, but discussion indicates 7:00 a.m. to 6:00 p.m. with the playground area—which they have also shown on the site plan attached to the Day Care—open from 8:00 a.m. to 6:30 p.m.

The playground area itself is approximately 3,500 square feet and the site plan shows a 6-foot high wooden fence around it. The sight plan also shows some new parking for the facility. That parking is coming in off of 12th Street. It is providing an additional 14 spaces for the church and facility, which will exceed the required parking for that combination of uses, the church and the Day Care.

The applicant has verbally noted that there are 20 to 30 trees scattered throughout this 4.66 acre area. It is noted in the staff report that a Day Care, general is a Conditional Use for residential zoning. The property across Ridge Road to the east is zoned Single-Family 6, and is developed as such. There are some existing trees and bushes on the property. The property across the street off of 12th Street is also zoned 'SF-6' and is developed as residential. (Indicating) This area is where the expansion for the would occur. This is some of the existing playground equipment that the church is currently using. We have single-family zoning and single-family uses abutting the church property on the south side.

Staff is recommending approval of the Conditional Use with the conditions that are noted on Page 3 of your staff report. We are basing this on the 5 criteria we are looking at. The zoning uses and character and the neighborhood. The applicant's site and the surrounding area is zoned 'SF-6' Single-Family Residential.

The suitability of the subject property for the uses which has been restricted: Residential development on both the proposed site is unlikely as along as the church remains. If the church leaves, it is conceivable that the property could develop into residential. That goes back to the Conformance to Plans/Policies. The Comp Plan identifies this property as low -density residential and the surrounding development in this neighborhood certainly reflects that type of development.

Again, going back to the suitability of such property, as long as the church stays, it is going to remain a church. It is conceivable that the property could develop into residential if the church leaves. Also note that 12th Street ends in a 'T' on Ridge Road, which makes it less attractive for any kind of non-residential development.

The extent to which removal of the restrictions will detrimentally affect nearby property, staff feels that the conditions that are normally applied to a center general would minimize any detrimental affect on this property. It is also noted and is shown on the site plan that the current location of the existing church and the proposed pretty well puts this development right in the middle of this 4.6 acres. We have ample green open space between it and the residential areas, plus we have roads on three sides that serve as a barrier, too, from the residential areas.

No. 4, conformance of the requested change to the adopted or recognized Comp Plan and Policies—again a Conditional Use is required for a , general in this particular zoning. On No. 5, because of how it is located on the site plans and the conditions associated with the development of a , general. Staff feels that the impact of this development on the community facilities will be minimal. Are there any questions?"

MICHAELIS "Are there any questions of staff?"

BARFIELD "Could you tell me, once again, what the hours of operation would be, that have been discussed?"

LONGNECKER "Yes, the hours of operation, when the report was being written, the discussion was for between 7:00 a.m. and 6:00 p.m. This is for children 12 months up to kindergarten, but not including kindergarten. Now, the playground hours being discussed are from 8:00 a.m. to 6:30 p.m. Currently, the Zoning Code allows it to open at 7:30 a.m. and operate to 6:30 p.m."

BARFIELD "I guess my concern is that if the is going to close at 6:00 and the playground is going to close at 6:30, we are going to have half an hour on 'unmanned' playground activity. Is that correct?"

LONGNECKER "That is the way it is reading right now. You are right. Again, the discussion indicates that the time it was going to be open was 7:00 a.m. to 6:00 p.m. I will let the applicant address the hours of operation because at the time the staff report was written, it was not set."

HENTZEN "Did the DAB look at this?"

LONGNECKER "No, sir."

HENTZEN "Is it going to be, or is it supposed to be?"

LONGNECKER "It is not supposed to be, no, sir."

KROUT "You asked if is it supposed to be, I am not sure that we have a perfect process, but I want to let the Planning Commission know what the current process is. We take a look at a case and say 'do we think this is going to be controversial or not?' If we think it is, we will send it to the DAB. If we don't, we don't. But we do send a notice, an early warning of all cases to the District Advisory Boards and to the City Council members and then if they think we are right or we are wrong, then they will either add it or subtract it from the DAB meeting."

MICHAELIS "Any further questions? Thank you, Mr. Longnecker. Could we hear from the applicant, please?"

JENNIFER LUDIKE "I live at 1985 Amidon, Apartment #701 in Wichita. I am the Program Facilitator for the Child Care Center. A couple of changes that we did have is that we are going to change the fence from the stated wood fence to a wrought iron fence with some bushes around it to improve the aesthetic appearance of it.

On the hours of operation, we decided last night that they are going to be from 6:30 a.m.—that is so any employees in the area who need to be to work at 7:00 will have time to drop their children off—and we will close at 6:00. The reason we expanded our playground time to 6:30 is to include if parents are late in picking up their children that we can spend the time outdoors if it is nice. It will not be 'unmanned'; it will always be supervised and locked so that no one will be able to enter."

MICHAELIS "Okay. Are there any questions of the applicant? Thank you, ma'am. Is there anyone else in the audience wishing to speak in favor of this item? Is there anyone wishing to speak in opposition? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). The applicant's site and the surrounding area is zoned SF-6 Single Family Residential. The immediate surrounding area is developed as single family residential. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is unlikely as long as the church remains. If the church leaves, it is conceivable that the property could develop into residential. The 12th St – Ridge Rd intersection is a T, rather than a 4way intersection, this makes the development of this site less attractive for commercial development. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. The proposed development, as

shown on the site plan, puts the development in the middle of the 4.66 acres thus providing open space between it and the existing residences. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for a Day Care, general, on "SF-6" Single Family Residential is a Conditional Use per the WSC Unified Zoning Code. The Comprehensive Plan sights the best use for this area as low density residential. Impact of the proposed development on community facilities: This is an unmanned structure, 167 sq. ft. and 10-ft tall, that will house electronics for Cox Communications. The impact of this development on the community facilities will be minimal.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The Day Care Center shall comply with all applicable local and state regulations, including the Supplementary Standards for Day Care Centers.
2. Development shall be substantially in conformance with the Site Plan and Landscape Plan.
3. Any violation of the conditions of approval shall declare the Conditional Use null and void.

MCKAY moved, **MARNELL** seconded the motion, and it carried unanimously (13-0).

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- 7a. **Case No. ZON2000-00022** – Kiser Properties LLC c/o John L. Kiser (Owner); Ritchie Associates, Inc. c/o Rob Ramseyer (Applicant); MKEC Engineering Consultants, Inc. c/o Greg Allison (Agent), request zone change from "LC" Limited Commercial and "AF-20" Single-Family Residential to "LC" Limited Commercial; and
- 7b. **Case No. CUP2000-00021** – Kiser Properties LLC c/o John L. Kiser (Owner); Ritchie Associates, Inc. c/o Rob Ramseyer (Applicant); MKEC Engineering Consultants, Inc. c/o Greg Allison (Agent) request the creation of the Kiser West Community Unit Plan.

SCOTT KNEBEL, Planning staff "The applicant is requesting a deferral on this case. I think it might be best to hear from the applicant to let them give you the time frame that they would like. I will make a presentation if necessary."

MICHAELIS "Is the applicant here?"

KNEBEL "Yes."

MICHAELIS "Is there anyone here to speak on item 7a and 7b?"

LISA BECKINGHAM "I am with MKEC Engineering Consultants. I just want to state that we wish to defer on this item."

HENTZEN "How long?"

BECKINGHAM "I am not sure."

MOTION: That the item be deferred for 2 weeks.

HENTZEN moved, **COULTER** seconded the motion, and it carried unanimously (13-0).

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- 8a. **Case No. ZON2001-00019** – Ritchie Investment Company, c/o Rob Ramseyer, and Ritchie Associates, Inc. (owners); Baughman Company c/o Terry Smythe (agent) request a zone change from "LC" Limited Commercial; "SF-6" Single-Family Residential; "SF-20" Single-Family Residential to "LC" Limited Commercial; and
- 8b. **Case No. CUP2001-00013** – Ritchie Investment Company, c/o Rob Ramseyer, and Ritchie Associates, Inc. (owners); Baughman Company c/o Terry Smythe (agent) request amendment and expansion of the Community Unit Plan on property described as:

Lots 1, 2, 3, 4, 5 and Reserve A, Starwest Addition, Wichita, Sedgwick County, Kansas, TOGETHER with that part of the Southeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as follows:

Beginning at the Northeast corner of Lot 2, in said Starwest Addition; thence North 89 degrees 36'35" West along the North line of said Starwest Addition, 1440.09 feet to the Northwest corner of Reserve A in said

Starwest Addition; thence North 25 degrees 44'17" West, 801.00 feet, more or less, to a point on the North line of the South Half of the South Half of the North Half of said Southeast Quarter; thence Easterly along the North line of the South Half of the North Half of said Southeast Quarter, 1846.00 feet, more or less, to the Northeast corner of the South Half of the South Half of the North Half of said Southeast Quarter; thence Southerly along the East line of said Southeast Quarter, 722.32 feet to the intersection of the North line of said Starwest Addition, as extended East; thence North 89 degrees 36'35" West along said extended north line 59.90 feet to the point of beginning, subject to road rights-of-way of record. Generally located on the northwest corner of Ridge Road and 37th Street North.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting to amend DP-250 Starwest C.U.P. and expand it to include 26.97 additional acres to the north. The additional land consists of 11.45 acres to the north that was approved on March 30, 2000 by MAPC as DP-253 Kaylor C.U.P. and 15.52 more acres farther to the north and west. The expanded C.U.P. would be renamed DP-250 Northridge Plaza Community Unit Plan, and would be 55.47 acres in size. It would extend for over half the distance from 37th Street North to K-96 and would include a portion of the Big Slough North as its western boundary.

The C.U.P. is associated with a zone change request from "SF-20" Single-Family and "SF-6" Single-Family to "LC" Limited Commercial for the additional 27 acres. Proposed uses are all those allowed in the "LC" district except adult entertainment establishments, group homes, group residential, halfway houses, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor would be allowed as long as food was the primary service of the establishment.

The C.U.P. has two major parcels and nine outparcels: Parcel 1 - 16.01 acres, Parcel 2 - 20.29 acres, Parcel 3 - 1.45 acres, Parcel 4 - 1.01 acres, Parcel 5 - 1.11 acres, Parcel 6 - 1.11 acres, Parcel 7 - 1.34 acres, Parcel 8 - 1.14 acres, Parcel 9 - 1.51 acres, Parcel 10 - 1.53 acres, and Parcel 11 - 1.30 acres. Reserve A (7.69 acres) is reserved for drainage and open space.

The C.U.P. proposes a maximum building coverage of 30 percent, total floor area ratio of 35 percent, and maximum building height of 35 feet. Three buildings would be permitted on the two large parcels; the outparcels would be limited to one building each. Setbacks are generally 35 feet from the property line along 37th and Ridge, and 60 feet for the two large parcels along their boundaries with the outparcels and the property to the north.

All freestanding signs would be of a monument type, have a maximum height of 30 feet for Parcels 1-2 and 20 feet for Parcels 3-11, be spaced at least 150 feet apart. Proposed signage is as follows: Parcel 1 - 395 sq. ft., Parcel 2 - 300 sq. ft., Parcels 3-11 - 150 sq. ft. Signage restrictions would prohibit flashing signs (except showing time, temperature and public messages), portable signs, signs on the rear of buildings, and window display signs in excess of 25 percent of window area.

The applicant proposes all parcels share a uniform architectural character, color, texture, and the same predominant exterior building material, consisting of predominantly earth tones, and must employ materials similar to surrounding residential areas. The applicant proposes similar or consistent lighting elements, with the height of light poles to be 24 feet. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings would not be permitted.

The application area is undeveloped. Three residences are being removed from the northern portion of the proposed development.

Several new developments are located to the south of the proposed application area. DP-237 Ridgeport North C.U.P., is being developed at the southeast corner of 37th and Ridge. Medical offices, a hospital (Via Christi) and assisted living are under construction. The property immediately to the south of the application area, DP-242 Ridge Centre C.U.P. is being developed with office/commercial uses. A day care and an office building are under construction. DP-245 Catamaran Cove C.U.P. is immediately west of Ridge Centre C.U.P. This area was approved for "B" Multi-Family zoning for up to 775 apartment units.

The property north of the site has been approved for "NR" Neighborhood Retail. It is being platted as Rush Farms Addition. Another application has been filed but deferred for "LI" Limited Industrial and "LC" uses for the property that abuts K-96. The property to the east of Ridge Road is still in agricultural use except for a cell tower.

Virtually all the parcels of Northridge Plaza except three outparcels, Parcels 3, 4 and 5, are in the 100-year floodplain. (Parcels 3, 4 and 5 are in the 500-year floodplain.) The "Reserve" shown on Northridge Plaza is part of the floodway for the Big Slough North. The land west of the Big Slough North is under the same ownership as Northridge Plaza C.U.P. According to the applicant, they intend to develop this land into low-density residential use.

CASE HISTORY: The original portion of DP-250 Starwest C.U.P. was platted as Starwest Addition on April 17, 2000. The remainder is unplatted.

All of the original property in DP- 250 Starwest and most of the land located west of DP-253 Kaylor C.U.P. already has been annexed. However, the land included within the original DP-253 Kaylor C.U.P. application plus the additional 330-

foot strip of land along the northern edge of the proposed C.U.P. have not been annexed. The applicant has advised that the remainder of the property will need to be annexed prior to Wichita City Council taking action on the case.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Large-lot residential, agricultural, greenhouse/florist
SOUTH: "LC"; "SF-20" Day care and office under construction; vacant
EAST: "SF-20"; Agricultural
WEST: "SF-20" Agricultural

PUBLIC SERVICES: The property is located along Ridge Road, a four-lane suburban arterial street with open drainage. 37th Street North is still an unpaved road. Traffic volumes along Ridge Road in 2000 were 9,354 ADTs (average daily traffic). This was projected to increase to 23,000 ADTs in the 2030 Transportation Plan, but this level will probably be reached well before 2030 if all the projected development already approved for the vicinity occurs (Via Christi, Ridge Centre, Starwest, Catamaran Cove, etc). In fact, if fully developed with 728,000 square feet of shopping center type of uses, Northridge Plaza alone could be projected to increase traffic on Ridge Road by as much as 22,500 vehicle trips per day, based on an assumed trip generation rate of 31 trips per day per 1,000 square feet of floor area. This is significantly more traffic than was anticipated by the 2030 plan.

The C.U.P. proposes two major openings onto Ridge Road and one major opening onto 37th Street North. There are two joint access points onto Ridge, and one joint access point and one additional opening onto 37th. The C.U.P. would provide cross-lot circulation between parcels and at two points of access to the property to the north of the C.U.P. A pedestrian walk system is proposed to link sidewalks along Ridge with the proposed buildings.

Water and sewer services are not currently available to the property. The applicant will need to guarantee extensions for water and sewer services.

CONFORMANCE TO PLANS/POLICIES:

The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area for "commercial" use. The proposed development plan is in conformance with the Comprehensive Plan.

RECOMMENDATION:

The Big Slough North is a major factor that will impact the drainage plan during the platting process and will affect the use of the properties.

Ideally, development occurring in the area between K-96 and 37th Street North should be coordinated to provide a smooth traffic circulation. The area could be compared to the stretch of Rock Road between K-96 and 29th Street North, where concentrated commercial development with many points of access have led to congestion and traffic hazards. This stretch of Ridge is the same length, one-half mile, and in the same relative position, immediately south of K-96. If all the potential developments, Via Christi, Northridge Plaza, Ridge Centre, Catamaran Cove, plus additional residential development in the area materialize, it is possible to imagine a replication of traffic conditions on Rock Road.

However, there is an opportunity to avoid problems that have beset Rock Road by refining the traffic circulation pattern for the area, with an eye to limiting access points and placing the points of signalization at the most beneficial location. In terms of a circulation system, this would require north-south connections serving as an internal collector system to Ridge and 37th at strategic locations. This alignment of private roads within Northridge Plaza is important to provide a smooth internal connection to the properties to the north because of the barrier of the Big Slough North on the west, forcing all links to Ridge Road and 37th Street North. The revised C.U.P. drawings submitted stipulate provisions for the internal connections (1) on the rear of Parcels -10 and (2) another private drive at least 500 feet farther west. This provides two access points to serve the properties to the north. It is important that the drive farther to the west be a smooth-flowing drive with no parking spaces taking direct access from the drive. Otherwise, it would be difficult to maneuver through ¼ mile of continuously interrupted travel.

The quarter-mile point on Ridge Road is a logical point for signalization and is also a proposed major opening into the site. Between this signal and the one proposed at 37th and Ridge ¼ mile to the south, the applicant has requested an additional major opening plus two joint openings. Access management principles would suggest that this is in excess of the needed openings. Perhaps the joint access between Parcel 5 and 6 could be eliminated. Staff originally recommended the joint opening between Parcels 7 and 8 on Ridge and the joint opening between Parcels 8 and 9 on 37th should be limited to right-in/right-out only. The revised C.U.P. guarantees to provide raised medians in the future should the Traffic Engineer determine that left-turns are a hazard.

Based on these comments, plus the information available prior to the public hearing, Staff recommends the request be APPROVED subject to platting within one year, subject to annexation of the unincorporated portion of the tract, and subject to the following conditions:

- A. APPROVE the zone change (ZON2001-00019) to "LC" Limited Commercial, subject to platting of the entire property within one year.

B. APPROVE the Community Unit Plan (DP-250), subject to the following conditions:

1. The following transportation improvements shall be provided:
 - A. Cross-circulation access shall be provided within this C.U.P. and the property to the north. One access opening shall occur along the rear line of Parcel 3 and continue south along the rear line of Parcels 3-10. The second point of access shall be located no closer than approximately 500 feet west of the west line of Parcel 3.
 - B. A continuous right-turn decel lane and a northbound left-turn storage lane shall be provided at the northern major opening along Ridge Road. The joint openings and the southern major opening along Ridge Road shall operate as full access for all turning movements until the Traffic Engineer determines their closure to left-turns is necessary. A guarantee of the future construction of raised medians and improvements will be provided. A pro rata share of these improvements will be assessed to this C.U.P.
 - C. The major opening on 37th Street North shall be separated by at least 400 feet from the joint opening between Parcels 8 and 9.
 - D. The applicant shall guarantee 12.5 percent of the cost of the signalization of the intersection of 37th Street and Ridge Road and 30 percent of the cost of signalization of the major opening of Parcel 2.
 - E. A guarantee shall be provided for paving a pro rata portion along the frontage of 37th Street North.
 - F. A continuous right-turn decel and a left-turn storage lane shall be provided from the intersection to the major entrance on 37th Street North and the major entrance on Ridge Road. (This is not included on the C.U.P. but was an existing condition of the DP-250 Starwest C.U.P., as approved January 19, 2000).
2. No development shall occur until such time as municipal water and sewer services are provided to the site.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
6. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-250) includes special conditions for development on this property.
7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of this area is changing. Office/medical uses are being developed to the southeast, and limited commercial, office, and neighborhood retail uses are approved for development to the south. Multi-family development has been approved to the south. The tract to the west is separated from this site by the Big Slough North and remains agricultural in use. The tract to north is large lot suburban, agricultural, and a neighborhood retail use, but could be anticipated to be developed more intensively northward to K-96, as could the land east of Ridge between 37th and K-96 which is still in agricultural use and approved for a commercial communication tower.
2. The suitability of the subject property for the uses to which it has been restricted: The property could remain agricultural, but would more likely be developed with urban-type uses. It's location along a major arterial near a freeway interchange and the presence of office/commercial activity nearby makes low density "SF-20" and "SF-6" residential development seem out of character and below desirable density levels for orderly urban expansion.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north, and east would seek to be developed more intensively. Approval probably would not influence the property to the west as significantly due to its separation by the Big Slough North.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed development is in conformance with the Comprehensive Plan.

5. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities and significantly increase traffic volumes. However, through the required guarantees for street and other infrastructure improvements and provision of a circulation network, this impact should be reduced.

GOLTRY "This map (indicating) shows the existing Starwest CUP. What the applicant is requesting is that they incorporate an area that you heard before, a case called DP-253 Kaylor about a year ago, and that that be incorporated as part of Starwest. They have also acquired the property to the north and would also include it as part of the new Northridge development, which would be an integrated development. It will be a development that stretches from 37th Street North and Ridge Road more than half the distance to K-96. This would be the half distance point and the potential signalization point.

I won't go into detail on all of the fine points of it except to mention that there are two major parcels for 'big-box' type users and nine out parcels. All of the information regarding architectural control, pedestrian walks, etc., is all the same as from Starwest before, so we don't need to reiterate that.

The property immediately north of the site probably bears a little discussion. This area is part of an 'NR' Neighborhood Retail greenhouse site that was approved about a year ago. It is the 'Rush Farms Addition'. It has now been purchased instead by a bank, who is hoping to build as a bank site. Initially, when this case was pulled for two weeks—one of the reasons it was pulled was working out issues between the two properties—they had about a 350-foot deep site.

Originally, the applicant wanted to have a frontage road along the backs of the out parcels for internal circulation, which is a good plan. Then I called that it swing around back (pointing to the rear of the Rush Farm parcel) to accommodate the site depth for the Rush Farms Addition to the north. Upon reconsideration, we are recommending that this road dead end right here (indicating) at about 220 feet back from Ridge Road in correspondence with the rest of the out parcel ring road. I have spoken with the gentleman who owns the property to the north. I don't know if he submitted any testimony today in behalf of that, in favor or in opposition. I didn't sense that he had a tremendous amount of opposition to this change in staff recommendation when I spoke with him this morning, but I hesitate to speak in behalf of someone else.

Virtually, all of the property in Northridge is in the flood plain. Most of it is in the 100-year flood plain. That portion that isn't, which is some of the out parcels, is in the 500-year flood plain. I think we are pretty much familiar with the surrounding land use. In terms of recommendations, it is in conformance with the Comprehensive Plan for commercial use. If you all remember the discussion—and there was extensive discussion of transportation issues on the Kaylor CUP a year ago—we did make the analogy between this parcel, which represents that half mile stretch between K-96 and 37th Street that would be analogous to the Rock Road corridor.

To try to avoid the types of congestion that we have had along Rock Road, there is a much more limited number of access openings that are recommended on this parcel with respect to what you see on Rock Road. They have basically two major openings on Ridge, plus one major opening on 37th Street. They also have some joint access openings between two of the little out parcels, positioned between the little out parcels as you come back from the intersection (Parcels 7 and 8 and between Parcels 8 and 9). The Traffic Engineer would have liked to have reduced even one further on the access openings along Ridge Road between Parcels 5 and 6).

To supplement this, internal circulation is predicated on the private road I already mentioned that runs along the back side of the out parcels, plus another internal connection that will connect from the two large out parcels and go forward here to be stubbed out. It can go through the Rush Addition and go on up to the last parcel to the north so that it will be at least 500 feet back from the first internal road, so we will have good internal circulation.

Staff recommendations are the same as what are shown on your CUP, with the exception that I have added one condition—Condition F—that a continuous right-turn decel and left-turn storage lane be provided from the intersection to the major entrance on 37th Street North, and the major entrance on Ridge Road. Those were conditions that were originally contained in Starwest a year ago, and I felt that they should be maintained as an important part of the CUP. Other than that, we are in agreement with what is shown on the CUP, which is 12.5% of the cost of the signalization of 37th Street North and Ridge and 30% of the cost of signalization of the major opening on Parcel 2 and the other details that are given in the staff report. I think I will go ahead and stand for questions now."

GAROFALO "I am a little confused on all of this access stuff. I would like for you to explain that to us again. Are there four accesses on Ridge Road; three on 37th Street?"

GOLTRY (Indicating) "On Ridge Road we have a joint access here, a major opening here between Parcels 6 and 7; joint access here (between Parcels 7 and 8); a major opening here between Parcels 3 and 4; and there is also an access there. There are only four. That is right. (Indicating) This one up here was removed."

GAROFALO "And what about 37th Street?"

GOLTRY "One between Parcels 8 and 9, two between Parcels 10 and 11; and, three, west of Parcel 11."

GAROFALO "Okay. And you said something about the Traffic Engineer wanting to take out another one on Ridge?"

GOLTRY "That is the one they have removed? I stand corrected on my staff report on that. (Note: Goltry was incorrect—the request would have been to remove the access between Parcels 5 and 6)."

GAROFALO "So in other words, there was going to be five? Okay. Then, on Page 5, Item 1A, the cross-circulation, and in the last sentence 'the second point of access shall be located no closer than approximately 500 feet west of the west line of Parcel 3.'"

GOLTRY "I think the easiest way to explain that is to back up to the map—in other words, you are going to have a road along in this area (indicating)—and what they are saying is that they want to have a second point of access at least 500 feet back from there, so you don't have one on top of the other and you do get some good circulation within the CUP. That is as it is stated on the revised CUP that was submitted that you have."

MICHAELIS "Are there any other questions of staff? Thank you, Ms. Goltry. May we hear from the applicant, please?"

TERRY SMYTHE "Good afternoon. I am here on behalf of the applicant. We have worked with staff for many, many months on this. We deferred it two weeks ago to firm up some other details that came up in the staff report. We have met those conditions and we are in agreement with staff comments."

MICHAELIS "Are there any questions of the applicant?"

WARREN "We have had a lot of talk and concerns about the possibility of doing 'U-turns' at intersections. With this deceleration lane that you have in there, would that, in any way, in the future, give us a possibility of doing a 'U-turn' at the intersection. Is that enough room, or would we need more room to do that?"

SMYTHE "I am surrounded by experts, and I am going to tell you, from a traffic engineering standpoint, I think we are going to have to ask the traffic engineering people on that. I would think, with 150 feet of right-of-way at that intersection, there would be enough room, but you are out of my expertise."

WARREN "It seems like we are moving more and more towards eventually a center divider and right-turn only, which is going to dictate that we figure out a way to get those cars turned back to where they want to go."

SMYTHE "And I think on some of the conditions that we worked with staff on, the north/south connections, that if those raised medians along Ridge Road were to pop up tomorrow or a year from now, that there would be enough internal circulation that once you got the major entrance that you could work your way back down. It is going to be a training process, there is no question about it. But we are comfortable with it."

MICHAELIS "Are there any other questions of the applicant? Thank you, Mr. Smythe. Is there anyone else in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to this application? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of this area is changing. Office/medical uses are being developed to the southeast, and limited commercial, office, and neighborhood retail uses are approved for development to the south. Multi-family development has been approved to the south. The tract to the west is separated from this site by the Big Slough North and remains agricultural in use. The tract to north is large lot suburban, agricultural, and a neighborhood retail use, but could be anticipated to be developed more intensively northward to K-96, as could the land east of Ridge between 37th and K-96 which is still in agricultural use and approved for a commercial communication tower. The suitability of the subject property for the uses to which it has been restricted: The property could remain agricultural, but would more likely be developed with urban-type uses. Its location along a major arterial near a freeway interchange and the presence of office/commercial activity nearby makes low density "SF-20" and "SF-6" residential development seem out of character and below desirable density levels for orderly urban expansion. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north, and east would seek to be developed more intensively. Approval probably would not influence the property to the west as significantly due to its separation by the Big Slough North. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed development is in conformance with the Comprehensive Plan. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities and significantly increase traffic volumes. However, through the required guarantees for street and other infrastructure improvements and provision of a circulation network, this impact should be reduced.) I move that we recommend to the governing body that the request be approved, subject to the following:

APPROVED subject to platting within one year, subject to annexation of the unincorporated portion of the tract, and subject to the following conditions:

1. APPROVE the zone change (ZON2001-00019) to "LC" Limited Commercial, subject to platting of the entire property within one year.
2. APPROVE the Community Unit Plan (DP-250), subject to the following conditions:
 1. The following transportation improvements shall be provided:
 - A. Cross-circulation access shall be provided within this C.U.P. and the property to the north. One access opening shall occur along the rear line of Parcel 3 and continue south along the rear line of Parcels 3-10. The second point of access shall be located no closer than approximately 500 feet west of the west line of Parcel 3.
 - B. A continuous right-turn decel lane and a northbound left-turn storage lane shall be provided at the northern major opening along Ridge Road. The joint openings and the southern major opening along Ridge Road shall operate as full access for all turning movements until the Traffic Engineer determines their closure to left-turns is necessary. A guarantee of the future construction of raised medians and improvements will be provided. A pro rata share of these improvements will be assessed to this C.U.P.
 - C. The major opening on 37th Street North shall be separated by at least 400 feet from the joint opening between Parcels 8 and 9.
 - D. The applicant shall guarantee 12.5 percent of the cost of the signalization of the intersection of 37th Street and Ridge Road and 30 percent of the cost of signalization of the major opening of Parcel 2.
 - E. A guarantee shall be provided for paving a pro rata portion along the frontage of 37th Street North.
 - F. A continuous right-turn decel and a left-turn storage lane shall be provided from the intersection to the major entrance on 37th Street North and the major entrance on Ridge Road. (This is not included on the C.U.P. but was an existing condition of the DP-250 Starwest C.U.P., as approved January 19, 2000).
 2. No development shall occur until such time as municipal water and sewer services are provided to the site.
 3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 5. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 6. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-250) includes special conditions for development on this property.
 7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

JOHNSON moved, **LOPEZ** seconded the motion, and it carried
unanimously (13-0).

9. Case No. CON2001-00026 – Sedgwick County c/o Stephanie Knebel requests a Conditional Use for a Household Hazardous Waste Transfer Station, on property described as:

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: Sedgwick County has obtained the application area, located at the southwest corner of Osage Street and Stillwell Avenue, with the intention of developing a household hazardous waste (HHW) transfer station. The site is currently zoned "LI" Limited Industrial and is developed with two buildings and old railroad cars.

Based upon the attached site plan, an 8,160 square foot building is proposed. The proposed building would be a combination aggregate concrete foundation and stem wall with metal on the upper elevations. The metal would match other existing buildings located in the County's complex. The buildings interior will be specifically designed for the storage of recyclable material. The concrete floor is sealed and storage containers are provided with secondary containment devices. There will be a lab to test unknown materials to ensure proper processing. A space will be set aside for a drop and swap area where HHW that is still useable, such as paints; can be picked up for use. Generally, most HHW received can be divided into 1/3 paint, 1/3 used oils and 1/3 household materials such as antifreeze, cleaners, and aerosols. Roll-off containers are to be located on the south side of the proposed building. The roll-off containers would be used to consolidate non-household hazardous waste material that may come in with the HHW and which would then be hauled off to an approved disposal site. The HHW is currently hauled to a disposal site in Texas. Frequency of removal will be dictated by the quantity of material received, but material cannot be stored in excess of three months. The volume of material the facility can have at any one time and the frequency of removal is regulated by the Fire Department and KDHE.

The facility is expected to be open to accept recyclables Tuesday through Saturday. Hours of operations will vary in an attempt to provide citizens with the most convenient drop off opportunities. One schedule being considered is 4:00 P.M. to 8:00 P.M. Tuesday and Thursday, 7:00 A.M. to 6:00 P.M. Wednesday and Friday and 10:00 A.M. to 6:00 P.M. on Saturday. At the current facility located at the City's wastewater treatment plant, an average of 30 participates a day visited the site. They have had as high as 107 vehicles an hour utilize the site during special promotions. These rates may change since the County anticipates different hours of operation than those offered by the City.

Promotional materials will direct people to access the site via Seneca and Stillwell. The applicant expects to locate a sign on Seneca directing people down Stillwell as well. The entrance is to be off of Stillwell with the exit drive onto Osage. Osage Street dead-ends at the railroad tracks located along the south end of the application area. Parking areas are to be located along the north and east side property lines. A canopy covered drive is to be located along the east side of the building to provide a protected drop off area. Twenty parking spaces are shown. Fourteen are required.

Landscaping will be installed along Stillwell.

Nearby properties are zoned "B" Multi-family Residential, "GO" General Office and "LI" Limited Industrial. Surrounding land uses include: single-family residences, West High School athletic field, industrial and Sedgwick County service facilities. The closest homes are located on the ½ block located north of the application area, across Stillwell, fronting Osage. The homes located to the south, across the railroad tracks and Walker Avenue, are nonconforming uses. County Public Works uses located to the west include: public works storage buildings, sign shop, survey crew shop, sheriff's department property and evidence storage and voting machine storage.

CASE HISTORY: The application area was platted as Lots 1-13, Block 9, Yikes, Franklin Addition in 1887.

ADJACENT ZONING AND LAND USE:

NORTH: "B" Multi-family Residential & "GO" General Office; Single-family Residence and County services

SOUTH: "LI" Limited Industrial; Railroad Tracks, Single-family Residences, utility sub-station, industrial

EAST: "GO" General Office; West High School Athletic Field

WEST: "LI" Limited Industrial; Sedgwick County Government Services

PUBLIC SERVICES: Municipal services are available. Stillwell and Osage are both paved local streets. Traffic counts are not available for these streets.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts the application area as appropriate for "industrial" uses. The primary location determinants are the characteristics of the individual use, nature of any emissions, the surrounding uses and zoning districts, and the degree of compatibility. With the closing of Brooks landfill, the County has adopted a solid waste management plan that relies upon the use of solid waste transfer stations to collect refuse. Transfer stations are not able to accept household hazardous waste, therefore separate facilities must be developed in order to provide citizens with an opportunity to properly dispose of household hazardous wastes, and to effectively implement adopted waste management plans and policies.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Development and maintenance of the site shall be in conformance with the approved site plan.
- B. All applicable local, state and federal permits shall be obtained prior commencing operations.
- C. This Conditional Use permit shall be rendered null and void if operations have not begun within one year of approval.
- D. This Conditional Use permit shall be rendered null and void if the site is not operated or maintained in conformance with adopted conditions.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding properties are zoned "B" Multi-family Residential, "GO" General Office and "LI" Limited Industrial. Surrounding properties are developed with single-family residences, West High School athletic fields, industrial and Sedgwick County government service facilities. The character of the area is predominantly industrial and institutional with a few residences.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LI" Limited Industrial which permits a wide variety of uses. Given the site's proximity to other county service providers, the best use of the site is for additional county uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The transfer station would be a new type of government use for this area and probably will increase traffic in the area somewhat. However, the activity is fully enclosed, activities are to be monitored by appropriate agencies and the recommended conditions of approval will minimize detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts the application area as appropriate for "industrial" uses. The primary location determinants are the characteristics of the individual use, nature of any emissions, the surrounding uses and zoning districts, and the degree of compatibility. With the closing of Brooks landfill, the County has adopted a solid waste management plan that relies upon the use of solid waste transfer stations to collect refuse. Transfer stations are not able to accept household hazardous waste, therefore separate facilities must be developed in order to provide citizens with an opportunity to properly dispose of household hazardous wastes, and to effectively implement adopted waste management plans and policies.
5. Impact of the proposed development on community facilities: Traffic volumes will increase over present uses, but site design features and operation procedures (extended hours of operations) should help mitigate these increases.

MILLER "This is a request from Sedgwick County for an application for a Conditional Use to develop a Household Hazardous Waste Transfer Station. The proposed site is located on the southwest corner of Stillwell and Osage. If you are familiar with Seneca Street to the west, (indicating) this whole area in here is currently all part of the County's campus—the maintenance sheds where the County keeps the voting machines, the surveyors, the new county office building where the County Public Works is located is there. So it is part of their overall campus setting on South Seneca.

They have recently acquired the application area. It is currently developed with two homes and some old railroad cars and kind of storage sheds and stuff on the balance. There is a railroad track that runs through there and then Walker Avenue is further to the south. The West High School athletic fields are located to the east; there are homes located on the half block to the north, and I believe the County also has the half block to the west and then additional County yards, etc., there further west.

For the Household Hazardous Waste Transfer Station they are proposing to build a brand new building of approximately 8,000 square feet. The building would be constructed with an aggregate concrete floor and stem wall and the upper half would be a metal building and the color would be chosen to match existing facilities with the rest of their campus. The floor of the building will be sealed and any of the containers for liquids will have a secondary containment system so in the event that the primary structure leaks, it would leak into a secondary system and not go directly onto the floor, even though the floor is going to be sealed. They will have a lab in there to test materials so that if they are unsure what it is so it can be properly handled. They will also have a 'swap and shop' area that if there are usable materials like paints or varnishes that somebody could make use of, if they are dropping something else off, they could pick those up and take them and use them, so it would be recycled, in affect, rather than just disposed of.

Susan Erlenwein is here and can give you more detail on what Household Hazardous Waste is and the kinds of facilities that they have looked at that have helped them design this particular facility. They are looking at trying to optimize the hours of operation so that they can get the most usage. They haven't actually set specific hours. The ones listed in the staff report are ones that they are considering. Basically, Tuesday and Thursday 4:00 p.m. to 8:00 p.m. and 7:00 a.m. to 6:00 p.m. Wednesday and Friday, and 10:00 a.m. to 6:00 p.m. on Saturday. The reason why they are kind of looking at these variable hours is that they are trying to maximize the use and their feeling is that if you are working on stuff on a weekend you are probably going to be doing the working early in the morning and then drop off later in the day. You may be busy during the weekday and need to drop off later hours. That is why they are going to the more evening hours of 4:00 to 8:00 type of thing to give you more access to the site.

The proposal, as far as the way the traffic would work is that they are going to have promotional literature that would direct people down Seneca to Stillwell and then into the site, make the drop-off, back out Osage and then back through Stillwell, although Osage is an open street up to the intersection where West High is. The drawing makes it look like Osage goes through, but the railroad tracks cut it off and Osage actually stops—dead ends—right there at the railroad tracks.

As you can see from the zoning, nearby property is either zoned 'B' Multi-family, 'GO' General Office or 'LI' Limited Industrial. With respect to the Comprehensive Plan, it depicts this area as appropriate for industrial uses and I think, as we have noted on some earlier cases regarding municipal solid waste that with the closing of Brook's Landfill, the County

has adopted a Solid Waste Management Plan that relies on the use of Solid Waste Transfer Stations to collect refuse. Transfer stations are not able to accept household hazardous waste; therefore separate facilities must be developed in order to provide citizens with an opportunity to properly dispose of these materials and to effectively implement adopted waste management plans and policies.

So, for that reason, staff is recommending support for this request, subject to the four conditions found on Page 4 of the staff report. The site plan is attached to your staff report. As I indicated, they are showing access off of Stillwell to go south and then they have a canopied area where patrons could stop, the materials could be deposited and then they would come out onto Osage, come back north and then back west to Seneca is the proposal. There would be bays located on the south end, facing the railroad track. With that I would try to answer any questions, and Susan is here."

Several of the Commissioners disclosed that they had been contacted with regard to this case at this time.

BARFIELD "Dale, could you show me once again the location of the railroad in conjunction to this?"

MILLER "Well, on the aerial (indicating) here is the application area and there is the railroad track there. Then Walker Avenue is further south."

BARFIELD "Do you know where the railroad yard is in relation to this? I believe there is a railroad yard in that general vicinity."

MCKAY "Not any more."

MILLER "I don't know about that. I don't know if anybody else would know."

MCKAY "The Santa Fe shop used to be west of Seneca, but that has been gone for 20 years."

GAROFALO "I have a couple of questions, but I think they are more for Susan, at the appropriate time."

MILLER "Okay."

HENTZEN "Dale, do you know, does the County's property go down clear to the railroad right-of-way?"

MILLER "Stephanie (Knebel) is here and she is saying yes."

HENTZEN "Okay, thank you."

BARFIELD "I have another question. You mentioned here that the volume of the material that the facility can have is regulated by the Fire Department. Do they also regulate the type of material?"

MILLER "I will let Susan address that. She is saying yes, but she can speak to that more clearly."

MICHAELIS "Are there any further questions of staff? Thank you, Mr. Miller. Could we hear from the applicant, please?"

SUSAN ERLLENWEIN "Good afternoon. I am with the Sedgwick County Department of Environmental Resources. Dale is setting up the overhead for me—thank you. I just want to briefly give you an idea of what household hazardous waste is and the type of facility that it might be. Household hazardous waste is what we find in the homes. It is really material that we use and it is not considered hazardous waste until we have some of it left over and we are trying to dispose of that material. We currently have a household hazardous waste facility operated by the Wichita/Sedgwick County Health Department, which is located at 57th Street South and Hydraulic at the sewage treatment plant. It is a temporary building down there that they have taken over and the funding for that ends when Brook's Landfill closes in October of this year.

Household hazardous waste contains such things as used motor oil that we change out of our engines. About one-third of what goes to facilities like this is used motor oil. Another third are paints or stains that are left over from household projects. You buy a gallon or five-gallon container of paint and only use a portion of it and then have it left over and you think that someday you may need to patch a spot and you keep it and keep it. Sooner or later you may move or you want to clean out the garage or basement, and so about a third of that is what comes into the facilities. The rest of the material is contained of solvents and thinners, cleaners like Windex is considered a hazardous waste, fingernail polish remover is a hazardous waste if you have any liquid left over and you wish to dispose of it.

Insecticides and herbicides that we all have in our garage or our sheds or in our basement or under our sinks, the reason it is important to properly handle this material are safety issues. If we leave it in our home under our sink, in our garage or in our basement, children can get into the material if it is not stored properly and there are accidental poisonings from that. If the house catches on fire, often the fire departments have problems with garage areas because of leftover paints or oils left in the garages. So it becomes a home safety issue. Let's not encourage people to store it up, but let's handle it properly and dispose of it safely.

Collection safety. The waste haulers that pick it up, if we just throw this liquid in our trash container, it becomes a safety issue to the collector. Disposal at the final land fill that the material goes to, we don't want liquid spilling out and contaminating the landfill areas. Environmental safety for improper disposal. If people have this, sometimes they will just

use it as a weed killer and go out in their back yard and pour it on the weeds. Sooner or later, that can soak into the ground and get to the groundwater. Or, they may have improper disposal on the streets, down the storm sewers that finally end up in the river. So, what a household hazardous waste facility is is a way to tell the people 'here is a facility you can bring this material to for free for proper disposal'.

We will also have a 'swap and shop', as Dale mentioned. The 'swap and shop' is an area where the original container is so you can read the components in it. Anyone can come in and for free take that half-gallon of blue paint that they might need. If they don't use it all, they can bring it back for free as well. So it is a way to benefit the community.

To give you an idea of what a facility looks like, (indicating) here is one I visited north of the Manhattan area. Here is the facility; there is a drive-through for people to drop off. It is a covered area and you can see that it basically looks like a warehouse. It has a concrete stem wall and a metal siding.

(Indicating) Here is another facility. This is in Kansas City, Missouri. Again, patrons here drive in, they can park and go to the swap area, or (indicating) they go through this area under the canopy to drop material off. I have a close-up picture of that on the next overhead. What happens at these facilities is when the customer comes in, they pull under the canopy and staff that has been trained, and you have to have special certification to work at a facility like this handling chemicals. That certification is renewed annually. You have to keep going through the training. Staff will go out and assist the customer in removing material from their vehicle. That material is then put on a cart, which is then wheeled into the building. So the building is enclosed and the material is taken from the vehicle inside the building, and at that point, the trained staff separates the material and weighs it. Is it a pesticide, is it a flammable material?

The question was asked 'how is it regulated'? The Fire Department and the Kansas Department of Transportation and the Kansas Department of Health and Environment have categories on how you store material and how you transport the material. We have been working carefully with the City Fire Department on their requirements for storage of this material. The storage (indicating) in this facility has the container; it has some drums that they put the material in, so it is separated by class. You would separate the acids from the bases. You don't want that to mix. Then, the material can be put into appropriate flammable cabinets such as these fireproof cabinets by Fire Code rating. They have to withstand a fire of like a two-hour duration. So, you categorize them and you contract with a waste hauler. The current facility contracts with Safety Clean who would come in and then take these materials for final disposal.

In Kansas City, they have some outside storage, but we will not have that. That is why the picture is kind of blurred here. The concrete stem walls separating one material from another, but what I wanted to show in this picture is—let's say Clorox bleach comes in, that is a household hazardous waste—it would be kept in the original container. That container would be put into a drum, and then say there is a pinhole leak in the Clorox container, it would leak inside the drum. The drum then is placed on a secondary container that has a grid on top. Any leak would be contained in that, so you have multiple safety features to contain any leaks. Then the concrete is also paved and drained to an appropriate area for storage. The only outside storage we will have is a canopy covered area for the trash because when people bring these materials in, often it is in a cardboard box with some other container, so we will have trash receptacles outside in dumpsters that are also under a covered area. We will also have a container for used oil when people bring in their oil from changing their engine. That will be stored inside a container and that will be pumped out when a truck comes and then taken to recycle it for recycled oil.

We mentioned the swap area. Let me go to that photo. Swap areas, as I mentioned are in the original containers, labeled so that people can come in and get an insecticide, an herbicide, paint, or Windex or some other cleaner that they might want for their house. This is a nice service; we have seen it in Colorado at facilities. It cuts back on the disposal costs of the materials by 40%, so it is a cost savings as well as a service to the community.

We also plan to have a training room for the staff at the facility so they can keep up on their training, and also we can meet with businesses or others who come to the facility. The current facility has a small quantity generator program where they work with businesses that generate less than 55 pounds of hazardous waste a month. Last year, they worked with about 25 businesses where they go out, look over the waste a business has, see if the business can take advantage of the cheaper contract this facility has with the disposal company to help small businesses also dispose of hazardous materials. Most of the hazardous materials from the businesses are oils and solvents, the cleaners for like a small car repair shop.

(Indicating) this map shows the current facility is located down here where the triangle is. It is open 9:00 to 1:00 Tuesday through Saturday. We have heard a lot of complaints about 'well, I work Monday through Friday and I can't make it down there, and it is closed by the time I finish working in my garage on Saturday'. We want convenience, so that is one of the things we are looking at, as Dale mentioned, for the hours of operation. Also convenience is this location next to the County yards is located centrally in Wichita. People can get to it easily from Kellogg down Seneca, over to Stillwell.

So, from looking at our Solid Waste Plan and what we have heard from the community, that is why this location was chosen because it is centrally located with easy access. We have heard people who live up north say 'I am not going to drive all the way south, I will just throw it away'. So with that, I will be happy to answer any questions you might have."

GAROFALO "Is the City one going to close?"

ERLENWEIN "The City one is currently open, but is funded through Brook's Landfill. So the funding for that ends October of this year."

GAROFALO "Then it will close?"

ERLENWEIN "It will close. In fact, the Fire Department has said that it is not adequate in many areas, and if they were to have kept it open, they would have had to revamp the entire building."

GAROFALO "In the new facility, will everything take place inside? The transfer of materials and what not?"

ERLENWEIN "Right. There will be loading docks on the south side of the building toward the railroad track, so on off hours, when the public is not there—and we may be open 4 hours to the public per day and the other 4 hours for working inside the building—the truck may come once a week or once every two weeks, depending on the volume of material we have loaded on the south side of the building into the truck. Any packing of the material happens inside the building. When I say packing, that is when they bring the container in and you put it inside that drum. That is inside the building."

GAROFALO "So this facility is considered the transfer station?"

ERLENWEIN "The reason it is considered a transfer station is because it is moving from this building to a disposal facility."

GAROFALO "So will you be required to follow the regulations that the County has set forth for transfer stations?"

ERLENWEIN "No, because this isn't a municipal solid waste transfer station, and that is what those regulations are. This is a household hazardous waste facility, and KDHE has a totally different set of regulations for that. We are following KDHE regulations and have been working with them; Code Enforcement; the Fire Department. All of the agencies involved in this facility."

GAROFALO "I am just curious. Where is this stuff going to be hauled off to?"

ERLENWEIN "That depends on who receives the contract when we go out for bid. Safety Clean, who handles the current facility, most of their material goes to Deer Park, Texas, which has an incinerator for some of the material. Oils would be recycled in a different location, so it depends on the type of material. But most of it ends up in Texas."

MICHAELIS "Are there any other questions for the speaker? Thank you, Ms. Erlenwein. Is there anyone else in the audience wishing to speak in favor of this item? Is there anyone wishing to speak in opposition to this item? Three of you. Okay, whoever wants to be first, please come forward."

ELIZABETH LEON "I live at 1145 South Osage, which is directly across the street from the proposed site. I have some handouts here to pass out. What I am handing out are photos that I have taken around that area. Like I said, I live directly across the street. One of the concerns I have is that there are only two accessible entrances into this area."

As you can see, Osage has been closed off as well as the football field is right there for West High, so there are only two ways in, which is on Stillwell and Osage, coming east on Stillwell and south on Osage. There is also a railroad track that is directly behind the red building you can see in the photos, which is part of the land. One thing that I want to bring up is that the County just recently purchased this land. I think it was the first of the year, maybe. It was owned by citizens from the neighborhood.

The second photo there is taken from the center of the West High field. It will give you an idea about where it is in conjunction to the West High field. I am a social worker for the State of Kansas and I deal with a lot of children, and one of the things that concerns me is the orphan material that may be left there. They have a certain time frame for the material to be left there, but I am concerned with the school being close to it. You can see on the second page a photo where I was standing in the middle of the field to where West High is. Right now, the truant children go over to that area sometimes now, during the day. But even in the evening if the kids are aware of this facility being there, and if individuals just drop off things without it being open, I am afraid of the huffing that may be going on with the teenagers in this community. Being so accessible to the school, they will see that.

The other photo is taken again, in the middle of the West High field—photo No. 4—and it just shows the area. Just to show how close that is to the proposed site. Not only does West High use this football field, but also city teams and city leagues for football as well as different types of classes come out to that field and play, which then opens it up for more children to go into that area in case there are orphan cans, paints or materials that are left out on the site.

Photo No. 5 is my property, which is directly across. It is Lots 15, 16 and 17, which is directly across off of Stillwell and Osage. Photo No. 6 shows other homes in that area as well. If you will look at Photo No. 7, I am standing on the property there, right on the land of the house that is going to be torn down. You can see how far that is from my back door, which is the main entrance to my home. I measured as best I could, and the distance is approximately 30 feet from the land. My property picks up 30 feet to where the County's proposed site is. Photo No. 8 is from my main entrance; it is a photo to where the site is going to be.

I called the Kansas Department of Health and Environment to find out about the other places that are in Kansas. They told me that Manhattan's was built on the edge of town; Salina's site is off by itself, no houses around it; in Kansas City, it is in an industrial area where there are no homes as well, just other buildings; and in Lawrence, it is not in a residential

area, but there are homes in the distance. I don't know exactly what 'in the distance' means. In Shawnee County, which is in the Topeka area, it is also in a rural area. I am not opposed to this kind of site being built; I think it is necessary because of the Brook's Landfill being closed. But I question whether this has been thought out as to the location, given that it is in a school area; there is not easy accessibility because two streets are closed off, and the school being there, even though the school personnel has given the okay on this, no one has informed the parents of the children that go to that school. There was a note that went out like on a Wednesday afternoon for an informational meeting that the County had, but not all of the parents received it. The ones that I spoke to who did receive it were in opposition to this.

The drainage area here is very poor. It has been known to flood on heavy rains."

MOTION: That the speaker's time be extended for 2 minutes.

MCKAY moved, **GAROFALO** seconded the motion, and it carried unanimously (13-0).

LEON "Thank you. It is a flood area. There have been times that from my home, if you look at that picture, the water has come up almost to the cement of where my back door is. With this, I am concerned about possible leakage of materials because they will be opening the cans there and they will be looking to see what is in there. I cleaned out my garage not very long ago, and I know how this stuff smells. It is easy to have leakage in old cans, so with the flood area, I am concerned about it going into the water system.

I think that as far as the odor, I don't know what that will be like, I just know that whenever you open up a can of paint, even if it is outside, it does give off an odor and living so close to that area is a concern for me, as well as for the other areas of the area.

The only people that were notified were people within 200 feet of the location, so there are other people in the community in that area that were not notified of this. When I went around to talk to some of them, they were not aware of what was going to be built in that area, so I think we need to look at another place rather than in the middle of the City, in the middle of a neighborhood, in the middle of where a school is, and also where the public goes. Thank you."

MICHAELIS "Thank you ma'am. Are there any questions of the speaker? Okay, next speaker."

JULIE OLIVAS "I live at 1121 South Osage, which is the little blue house in the pictures. As far as the closeness to the railroad tracks, I do have pictures of how close those tracks are to the proposed site. I would be glad to share them with you.

I am not much on public speaking; I haven't had to do it before. I have never opposed anything the County has done over the years, but I have a problem with this one. When they are saying there is a drainage problem, it is not just a drainage problem—it is a low-lying flood area. At the neighborhood meeting they had a week ago, everybody was talking about filling in an alleyway at a church, the New Baptist Testament, and they are proposing to take all of their drainage problems and move them down towards the river. That is going to come right through where the hazardous waste site is, and we have already got a flood problem there.

I have a bunch of pictures that I took on April 29 after a 10 minutes rain. To me, it is not a drainage problem; it is a flooding problem. I will be glad to pass these around. There are some here where this guy works at Johnson Wrecking, he came in that afternoon to pick up some materials and he couldn't even get through because of the flooding. I talked to him for a minute and he turned around and went out the other way. I have flooding that is up to the toxic fertilizer building. This is after just 10 minutes. When there are heavy storms—and I have complained over the years about it—the sewage has backed up my driveway into my basement. My basement doesn't leak; it comes in through the window because it comes up the driveway. I have had water that high (indicating) in my basement. You hate to say that kind of thing if you ever want to sell our home, but you have to disclose it. I just have a big problem with that.

When you were talking about the railroad tracks, about a year ago they closed off Stillwell when they were going to bypass all of the train traffic from downtown and they put it through our area. We have trains going up and down and those tracks every 2-3 hours and that causes a traffic back up on Seneca. I have seen it backed up clear to Kellogg at 5:00 o'clock at night. It has been that way in the afternoon. They are talking easily accessible—that is not easily accessible. If it is easily accessible in, once you get in there, I don't know how you are going to get out.

I talked to the City Planning, and the way Stillwell and Seneca is, they can't put a traffic light there because it isn't an intersection like that. It is kind of sideways. If you try to come out down my street on McCormick, it is 'Dead man's curve'. We have a lot of activity over there, and he is talking about Tuesday evening, and it just so happens that I have a picture of Tuesday evening over there, and if you can show me how cars are going to get up and down and in and out of here, I would like to know. Here are the pictures of a Tuesday evening, and here is the one after a 10-minute rain. You can see that there is no outlet, there is no way out once you get in."

MICHAELIS "Do you wish to enter those into public record? Do you necessarily need them back?"

OLIVAS "No, I want you to have them. I have some other ones in envelopes that I would like for you to look at. It is showing water backed up to the County line where their fence is, and that alleyway they are proposing to use. They haven't owned that property long, it has just been recently. Every time I tried to talk to them and voice my concerns about

it—and I realize that we are a very few homeowners—but that is my home. I worked 20 years to buy that little house. I don't feel like we should be put out in the back yard because they want to bring something centrally into the City.

I guess my thoughts on it to are that Tim Ferris cant to the neighborhood meeting, and there is an article in today's paper 'The Neighbor West'. I don't know if you read it, but he is saying that he is not concerned for the kids that are at West High. Well, when I talked to him, he was talking the distance between that site and West High that the vapors and fumes will be gone by the time they get there, but do you want to know something? I am in the line of fire. I am right between that. My house is right next to Liz's. To me, this is just not the site for this. If they want to do that, then they need to buy out the whole neighborhood and turn it Industrial, and then they can have it for whatever they want to do. I just don't think it is a safe place to put it.

I also have a letter from my neighbor next door from 1119 S. Osage. She wasn't able to come—she had to work. I guess part of their concerns on this thing is the idea of putting it on a dead-end street. The traffic that we have there, I have been there 16 years and there have been two kids hit on bicycles there because of people illegally parking on that street."

MICHAELIS "Ma'am, you time is up. Do you need additional time?"

OLIVAS "I'm finished, but I do have pictures and the letter from my neighbor that I will leave."

MICHAELIS "Okay. Are there any questions for the speaker? Okay, thank you, Ma'am. Is there anyone else wishing to speak in opposition to this item? Please come forward."

ROSALIE BRADLEY "I own the property at 1717 Walker, but I live at 1401 Julianne. The Walker property is not too far from this site, so I am familiar with the area. As I understand it, this is going to be the new Household Hazardous Waste site for all hazardous materials, which means it will not be just what comes in the trunk of my car, it will be what industry and businesses and that don't do their own recycling does. That means if you have a small garage you will bring your materials there.

The North Riverside Neighborhood Association did have an exchange and the swap went great. Of course, we had to have a lot of safety issues, etc., but a church volunteered their parking lot and we got rid of a lot of chemicals that were exchanged—fertilizer and what have you. That is a good idea. But I don't think that in the middle of the City is where we need to store all of the hazardous waste.

The large deliveries really concern me, especially when you consider the streets that are involved and the area of town, because if someone comes in there with a fair-sized truck, how do they get in and out? And they are ensuring us that everything will be inside, but I will venture to say that if we go there in a year it is not going to be very clean.

So I would urge that if they just wanted a little space for dropping off what was in my trunk to transfer it elsewhere, that might be acceptable, but to make this the major hazardous waste side in the middle of the City, where they are going to locate it is not, in my opinion, a very good idea. Thank you."

MICHAELIS "Are there any questions of the speaker? Thank you, ma'am. Is there anyone else in the audience wishing to speak in opposition to this item? Okay, Ms. Erlenwein, you have two minutes of rebuttal time."

ERLENWEIN "Thank you. To clarify, or to address some of the concerns of the neighbors, this is for household hazardous waste, and a program for small quantity generators of 55 pounds per month or less that we go out and work with the generator at their business. By law, we cannot take it from industries or high generators of hazardous waste. We just can't do that legally.

Another issue was about odors. We have a special room inside the building with proper vents and scrubbers on it that when we open paint cans it will be done in that room to eliminate odors from going outside the building.

On drainage issues, we have civil engineers working on this site for the drainage to make sure that water obviously does not get inside our building, but because the neighbors brought up that there is a current drainage issue, Stephanie Knebel has been in contact with Bob Jennings of the City Storm water that there are problems in this area. He is looking into the sewer and what problems already exist in this area on that.

Security for children at night was brought up. These types of facilities can receive people who come up when the facility is closed. They may drop it off, and we are looking at security cameras for that.

One of the reasons we like this area is because we already have County buildings in the area—Public Works—and they have security guards at night that roam that area. Part of their job would be to go by this facility and if they see any material to pick it up at that point. I think I have addressed all of the issues that were brought up. I would be happy to answer any questions."

MICHAELIS "Okay. Are there any final questions?"

MCKAY "I would like for you—take this drop-off, I have a concern, God love the security systems and the Sedgwick County people, but that is not a very good answer, in my opinion. Explain to me what the drop-off is after hours. How does that work?"

ERLENWEIN "It doesn't. It is an illegal drop-off. Just like if someone went to the landfill right now and the gates are closed and they decide to drop off their tires or whatever at the facility because the gates are closed. The drop-off is we would be closed and people would come by and leave their stuff anyhow. To help deter that, you have video cameras set up to videotape their tag number and the incident happening and you can come back on them. Also, we would use the security guards in the area. Basically, that is illegal dumping and that can happen in the ditch, it could happen now at the school ground area. It is something that is ongoing."

MCKAY "So this video, then, goes to the security people that are on duty at that time? Is that what you are trying to say?"

ERLENWEIN "That is correct."

WARREN "What if a ton and a half truck comes in there and he has 5 barrels of pesticide from his place that he wants to get rid of? What do we do with it?"

ERLENWEIN "Well, we would question his household if it had that much material, it is probably not a household. If it is a large capacity like that from a farmer or someone, we would work with them. We would call the disposal company immediately to come take that material. Since we are limited with the quantity of material we could have at that site, our operation plan would say if we go over the quantity, we immediately call the disposal company to come and take it off of our hands so it is not at our facility."

WARREN "Well, if this facility is not available to him with his 5 or like 7 barrels of pesticide, where would he go?"

ERLENWEIN "Probably out in the country and dump it illegally."

WARREN "No, I mean where could he go legally?"

ERLENWEIN "My first answer is what I think would happen, but legally he would have to work with a company that takes industrial waste and work through them for proper disposal."

WARREN "And those are available in Wichita?"

ERLENWEIN "Yes, at an extremely high price. That is why you end up with the illegal dumping. They discover that they can't really afford it. The current facility had 7,500 vehicles all of last year. That averages, for their hours of operation, about 28 vehicles per day. That gives you an idea of the type of flow we may get through our facility."

MARNELL "Will you have signs posted notifying people that it is illegal to drop material off after hours if the facility is not open?"

ERLENWEIN "Absolutely. We would also have an 'hours of operation' sign and emergency phone numbers and all of that posted at the gate."

BARFIELD "I have about 3 questions. No. 1, the photos that you showed of other operations, do you have any idea of the proximity of those to residential areas?"

ERLENWEIN "Yes. The one in Manhattan was to the north. It was not in a residential area, it was next to a golf course. The one in Kansas City, Missouri was on the outskirts of town. The one I have been to in Seattle was in a residential area on the bay with beautiful Victorian homes behind it. The one in California was in a residential. It just varies from area to area. Some are in the outskirts, some are in the county and some are in the city."

BARFIELD "What about screening to prevent the students from the High School from just venturing onto the property?"

ERLENWEIN "We will have screening, we will have landscaping, we will have fencing, gates for when it is closed. When we are there, though, we will have the security camera system in operation as well as when we are not there."

BARFIELD "One of the ladies that spoke in opposition talked about leakage of some of this material. Can you address that?"

ERLENWEIN "Because the material is taken from the vehicles inside the building, and she mentioned opening the cans, and I said that the paint cans would be inside an enclosed room with the venting, the material would be put in proper containers with the fact that if they leak then that it leaks into that container, and then if that container leaks, it leaks into another. We have to inspect those containers daily to make sure that there is not leakage. So we would be walking around, making sure that nothing is leaking from the one container into the final one. That is part of our operating plan."

BARFIELD "Also, when we talk about the amount of time that any of this material can be stored. What is that time limit?"

ERLENWEIN "It depends on the type of material. The Fire Department tells you how much material you can have, for example 120 gallons of flammable material. So some of your smaller containers of solvents may be considered flammable, and that has to do with the temperature at which it could burn. So they limit us to the amount of material we can have and KDHE also limits to the amount of time you can store that material. Sometimes it is 90 days. So you have

different limits there by type of material, and if you are looking at the Fire Code and KDHE—we have to combine all of that for how we store the material.”

BISHOP “I am concerned about the location and the storage question. I think you have clarified the large-user issue fairly well. If I understand it correctly, there would not be large users there. They would be required to work out their own arrangements with consultation.”

ERLENWEIN “That is correct.”

BISHOP “But has the County looked at the possibility—I understand the desirability of having this centrally located, because it is more likely to be used, and the idea is to make it more user-friendly. I have a quarter of my garage full of this stuff right now because I have not gotten down to South Hydraulic to get rid of it.

Have you looked at the possibility of separating collection and storage, and what difficulties would you encounter?”

ERLENWEIN “The difficulty becomes where you collect it. If you would store at another facility, now you are into the Department of Transportation guidelines and laws. Then we become a transporter of hazardous waste. Now you are trucking larger volumes from one spot to another. We would have to go through a whole new set of licensing, and then we are storing it at another location. So, it is like handling it more and it is not as efficient, and you could have an accident with larger quantity material on the road. So, for efficiency, it is better to have it at one location. And the fact that we are not storing it that long, the material is going out through our contractor for final disposal in Texas.”

BISHOP “Does that mean that you would have a fair amount of truck traffic?”

ERLENWEIN “We would have the typical weekly collection of trash from the boxes and other containers that come in, and we would have, once a week or every other week, a collection of the hazardous materials. That would be our truck traffic.”

BISHOP “So the folks that do come and get the hazardous materials have all of the licenses, etc., that they would need?”

ERLENWEIN “That’s right, and they are specially trained and they have the transporting licenses. And each drum would then have to be manifested as to what is in that drum. That is called a paper trail, so that when it is final disposal, we get a copy of that so that we know that it was disposed of properly and that they didn’t just go out and dump it somewhere.”

BISHOP “One more question, but it is of staff, I think.”

MICHAELIS “Okay. Are there any other questions of Ms. Erlenwein?”

GAROFALO “Does KDHE get involved in this?”

ERLENWEIN “Yes. They are the ones who permit the facility.”

GAROFALO “At what point do they get involved?”

ERLENWEIN “We work with them on the design and what their requirements are. They have regulations on how the facility should be built and then we need to send in a permit to them. We are working with them right now on the permit for the facility. They have to review that, plus they will be inspecting the facility once it is operation. They will send staff out and make sure we are handling it properly. The City Fire Department will be inspecting the facility as well to make sure that we are handling it properly.”

GAROFALO “So it can’t be built or anything until KDHE says it is okay?”

ERLENWEIN “That is correct. Like a transfer station, or anything that the State gives a permit on. If you started building it and they didn’t give you the permit, you have wasted your money.”

BARFIELD “Other than this meeting, has there been any opportunity for the neighboring residents to add any input?”

ERLENWEIN “We went to the DAB meeting a week ago and presented information. The neighbors talked at that meeting. The DAB approved it 5-2. The week prior to that, we had a neighborhood meeting and we sent out a notice to neighbors within a 350-foot radius of the site. We heard their complaints then. Some of the complaints we heard were the flooding in the area. That is why we have been contacting the City people to see what can be done in that area.”

MICHAELIS “Okay, thank you, ma’am. We will bring it back to the Commission.”

JOHNSON “Could you put the zoning map back up there? In looking at this, the property is Light Industrial, and looking at all of the uses in Light Industrial, I guess we could put a transfer station or about anything there without them being in front of us.

I also see that we could build car washes, communication towers, and construction sales and service, which we have been having trouble finding places for. So it looks like this is pretty much that anybody could build anything that

somebody would want there. I think the things I like about the proposal is the deal of having the facility where you could get rid of it, but also having a facility where somebody could come in and take some of the stuff and use it. I really think the best way to take care of it and get rid of it is to use it for what its original purpose was. The more that we get to re-use; the less we are going to have to dump somewhere else. I think that is what is real positive about this. And of course, the last thing is where it is going to be highly regulated and the County is going to be involved in it. That gives me a lot of insurance that it is going to be ran right and there won't be any problems.

I can see the neighbor's problem with the drainage and I am glad to hear that the County has gotten with the City and hopefully they will make that all better and make it an all-win deal. So with that, I am in support of staff's recommendation to approve this."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Surrounding properties are zoned "B" Multi-family Residential, "GO" General Office and "LI" Limited Industrial. Surrounding properties are developed with single-family residences, West High School athletic fields, industrial and Sedgwick County government service facilities. The character of the area is predominantly industrial and institutional with a few residences. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LI" Limited Industrial which permits a wide variety of uses. Given the site's proximity to other county service providers, the best use of the site is for additional county uses. Extent to which removal of the restrictions will detrimentally affect nearby property: The transfer station would be a new type of government use for this area and probably will increase traffic in the area somewhat. However, the activity is fully enclosed, activities are to be monitored by appropriate agencies and the recommended conditions of approval will minimize detrimental impacts. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts the application area as appropriate for "industrial" uses. The primary location determinants are the characteristics of the individual use, nature of any emissions, the surrounding uses and zoning districts, and the degree of compatibility. With the closing of Brooks landfill, the County has adopted a solid waste management plan that relies upon the use of solid waste transfer stations to collect refuse. Transfer stations are not able to accept household hazardous waste, therefore separate facilities must be developed in order to provide citizens with an opportunity to properly dispose of household hazardous wastes, and to effectively implement adopted waste management plans and policies. Impact of the proposed development on community facilities: Traffic volumes will increase over present uses, but site design features and operation procedures (extended hours of operations) should help mitigate these increases.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. Development and maintenance of the site shall be in conformance with the approved site plan.
- B. All applicable local, state and federal permits shall be obtained prior commencing operations.
- C. This Conditional use permit shall be rendered null and void if operations have not begun within one year of approval.
- D. This Conditional Use permit shall be rendered null and void if the site is not operated or maintained in conformance with adopted conditions.

JOHNSON moved, **MARNELL** seconded the motion.

MICHAELIS "Is there any discussion?"

BISHOP "I have a question about the DAB meeting. I know that there was one and I haven't seen a memo in my packet. I gathered that they approved it 5-2. I happy to hear that there was any other additional neighborhood meeting. I have a question of Ms. Erlenwein. Like Mr. Johnson, I am happy to hear that maybe as part of this, one positive thing for the neighborhood would be to improve the drainage situation in that area.

The other thing is, in the plans that you showed, and I realize that you were showing pictures of existing facilities, if you have a meeting area that you use for training, etc., if it is possible to make that available to the neighborhood as meeting space, perhaps for evening hours or something, so that the neighborhood could use it, at least to a limited extent, maybe that would be something you could look into also."

ERLENWEIN "That is a good idea. We can work with the neighbors and let them know of the availability of the room and how they could go about us ing it."

BARFIELD "Is landscaping going to be the only screening? Is it just on Stillwell."

MICHAELIS "It is triple landscaping."

ERLENWEIN "We have landscaping on Osage and Stillwell both."

PLATT "It seems to me like we are right back with the parole violator's reporting center. It is desperately needed in the community, and of course, we have to have one of these. I think the County can argue about putting it together, but I think this is the wrong place for it. I wouldn't want to have it across the street from my house, and I don't see why I should vote to have it across the street from anybody's house."

They picked the wrong location. Obviously, it has to be someplace where you can get to it easily. This is hidden on a dead-end street. It is just the wrong location and I am going to vote against the motion."

MICHAELIS "I am going to make a comment, too, in the same regard and to that same effect. I just don't think this is a good location for it—the accessibility is hard. You would have to have signs everywhere to get to it and getting in and out, and I do know that Seneca does back up. I just don't think this is a good location. So I am going to be opposing the motion also."

BARFIELD "I am going to say that I agree with Commissioner Platt that we are back to the parole violator's reporting centers. Another thing we are back to is that no matter where you go, nobody wants this in their neighborhood, so you are going to have the same situation no matter where."

I think one of the things you have to take a look at is the County's reason for this is the fact that it is centrally located. As the lady did mention, the people on the north side of town refuse to drive to 57th Street South. So we are going to have a problem. From what I am understanding you are saying that basically the right place is on the outskirts of town, but you are going to have the same problem if you put it on the west side because people on the east side won't drive there."

MICHAELIS "Well, we need one on all four sides of town. Is there any other discussion?"

VOTE ON THE MOTION: The motion carried with 10 votes in favor Warren, Johnson, Garofalo, Warner, McKay, Coulter, Barfield, Marnell, Hentzen and Lopez) and 3 in opposition (Michaelis, Platt and Bishop). Blake was not present.

10. **Case No. ZON2001-00014** – Nies Investments, LC (owners); Baughman c/o Russ Ewy (agent) request zone change from 'SF-20' Single-Family to "LC" Limited Commercial and "OW" Office Warehouse on property described as:

Parcel 1: A tract of land described as follows: Beginning at a point 600 feet East and 40 feet North of the Southwest corner of the Southwest Quarter of Section 33, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence North, 203.13 feet, more or less; thence East, 60 feet; thence South, 202.71 feet, more or less; thence West, 60 feet to beginning.

Parcel 2: A tract of land described as follows: Beginning at a point 660 feet East and 242.71 feet, more or less, North of the Southwest corner of the Southwest Quarter of Section 33, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence West, 175 feet; thence North, 190 feet to a point on the South line of Lot 1, Block 1, Sedgwick County East Yard Addition; thence East along said South line, 175 feet; thence South, 190 feet to beginning. Generally located north of Pawnee approximately 1/8 mile east of Webb Road.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting rezoning of a tract of land near the northeast corner of the intersection of Webb and Pawnee to establish a construction yard. Except for the eastern 60 feet of the proposed construction yard, the property is already zoned "LC". The applicant is seeking to expand the eastern boundary of "LC"/"OW" zoning by 60 feet. The southern 200 feet would remain zoned as "LC", presumably for typical "LC" convenience commercial uses.

A 175' X 190' tract would be converted to a construction yard for the storage of building construction materials. The site plan provided by the applicant shows the area being developed with a 7,500 sq. ft. building and roughly the same size are being used for outdoor storage. Access to the "OW" tract would be on a 30-foot access easement positioned along the eastern property line of the applicant.

Currently, the subject tract is undeveloped. The tract to the north, also owned by the applicant, is used for "indoor storage only" of construction materials, and was approved for this as a Special Use by the Board of Zoning Appeals (BZA 8-89; BZA 9-89) on October 10, 1989.

The surrounding area is undergoing urban development. Two residential subdivisions are being developed west of Webb. Pebblebrook 11 is located to the northwest; there is a small tract zoned "LC" at the corner, apparently reserved for

commercial use. Turtle Run is the subdivision being developed to the southwest. Cottage Grove Addition is a tract on the corner that also may be developed with commercial use.

The area north of the application area is the Sedgwick County yard, used for storage of road maintenance equipment and materials. However, the County Public Works Director confirmed that this use will likely be relocated in the future as urbanization occurs in the vicinity. A church is located to the north of the Sedgwick County yard.

The property to the east and south is in agricultural use. There are some large-lot residences located $\frac{3}{4}$ mile to the east of the application area, closer to Greenwich Road.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Limited Commercial Construction storage (indoor); Sedgwick County yard; church
SOUTH:	"SF-20"	Single-Family Agriculture
EAST:	"SF-20"	Single-Family Agriculture
WEST:	"LC"	Limited Commercial; Vacant; residential
	"SF-6"	Single-Family

PUBLIC SERVICES: The property is located along Pawnee, a two-lane arterial east of Webb. Pawnee becomes a four-lane arterial west of Webb. Webb is a four-lane arterial north of Pawnee and becomes a local street south of Pawnee. Traffic counts were unavailable.

Public water is available. Sewer services would be from the Four-Mile Creek District, which was recently acquired by the City of Wichita.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as "low density residential", but shows the intersection as a potential commercial node. This conforms with the presence of commercial zoning at the "commercial corner" both on this site and on the two intersections west of Webb. According to the Plan, non-retail commercial uses are not intended to be located at intersections like this.

RECOMMENDATION: This property represents the edge of urbanization. The property west of Webb is being developed with low-density residential subdivisions; development is poised to cross Webb into the application area and the surrounding large agricultural holdings to east and south. It is important that the use of this property not be allowed to compromise the future of other nearby tracts. One of the surrounding property owners has raised the issue of whether the addition of this use would influence the value of surrounding land for future residential development.

In terms of the land already zoned "LC", the eastern side of the intersection is shown on the Comprehensive Plan as being a future commercial node and the western side is shown for commercial use, surrounded by "low density residential." It can be viewed as the appropriate location for convenience shopping serving nearby future residential areas. The presence of large outdoor storage facilities would be incompatible with typical convenience retail shopping areas.

While the applicant already has construction storage on the adjoining tract to the north, it is a smaller building and limited to "indoor storage only" by the BZA and would not have the potential impact of outdoor storage requested by this application. The Sedgwick County yard is similar in character to the proposed use, but this should not be relied upon to determine this use since Sedgwick County most likely will be moving this yard sometime in the future away from urban-type uses.

Finally, an access road is proposed to be located on the eastern property boundary. This helps protect the owner from the impacts of the heavy construction-type vehicles on the use of the remainder of his commercial tract. But it shifts the burden of the construction vehicle traffic onto the neighboring property to the east.

Based on these considerations and upon information available prior to the public hearings, Staff recommends that the request for "OW" zoning be DENIED, but "LC" be approved for the entire 60 foot wide area that was advertised. However, should MAPC choose to approve the request, Staff recommends it be APPROVED, subject to platting within one year and subject to a Protective-Overlay with the following conditions:

1. All outdoor storage and parking of vehicles and equipment shall be completely screened from adjoining residential property by a masonry screening wall and a buffer with trees spaced every 40 feet. At least 1/3 of the trees shall be evergreen.
2. No materials shall be stored above the height of the screening wall.
3. The drive from Pawnee to the "OW" parcel shall be located at least 30 feet west of the east property line. A landscape buffer of solid evergreens in two staggered rows or a masonry screening wall with a buffer of trees shall be located on the eastern-half of this area.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land to the north is used for construction storage, however, one tract is limited to indoor storage only and the other will probably be relocated in the future. The areas on the corner of Webb and Pawnee are undeveloped, but intended for commercial/retail type of development. The surrounding land is zoned "SF-6" and "SF-20" and shown for low-density residential development. Currently, Pebblebrook and Turtle Run subdivisions are being developed on the western side of Webb.
2. The suitability of the subject property for the uses to which it has been restricted: The entire application area would be suitable for use as a convenience retail shopping area. This is compatible with the zoning requested for the southern 200 feet of the property, and would be appropriate for the entire tract.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Long-term use of the property for outdoor storage of construction yard could jeopardize the future residential use of the properties to the east and south and transition this from its uses as shown on the Comprehensive Plan to a higher intensity non-residential type of district.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is not in conformance with the Wichita Land Use Guide.
5. Impact of the proposed development on community facilities: The use would increase non-residential traffic on Pawnee.

GOLTRY "This is a request for a zone change from 'SF-20' Single-Family to 'LC' Limited Commercial and "OW" Office Warehouse to use for outdoor storage of construction materials. The application is for 0.28 acres for 'LC' and 0.76 acre for the 'OW'. It is located approximately 1/8 mile east of Webb Road and north of Pawnee.

You have indoor storage of materials going on here. You have the County maintenance yard, which we have been told by the County, is probably going to disappear in the future because as urbanization moves toward the County maintenance facilities, they try to move them on further back. So that is probably not considered a long term use. Then in the vicinity you have single-family residences and they have a commercial corner.

In terms of adjacent zoning, there is 'LC' Limited Commercial at the corners; there is 'SF-20' single-family residential on the east side of Webb Road, except for the church, which has been annexed to the City and is zoned 'SF-6', and then to the west it is 'LC' and 'SF-6'.

In terms of conformance with the Plan, the proposed use is shown as low-density residential; however, the corner is highlighted as a potential commercial node. The intention of these potential commercial nodes shown in the Comprehensive Plan is to be available to serve as commercial retail centers to serve the surrounding areas. It would have the typical type of commercial development you would associate with 'LC'.

As I have already said and reiterated in the 'Recommendations' section, this property represents the edge or urbanization and probably the most important point in the staff report is that we would urge that the use of this property not compromise the future commercial and residential development that is poised to occur within the vicinity. Now, as you know, there is already some indoor storage that is occurring on the applicant's property to the north. This indoor storage of construction materials was subject to a BZA in 1988 and then again in 1989, and the terms of the BZA in 1988 and 1989 was that it be indoor storage only."

WARREN "Where is that that you just described to the north. Could you point that out?"

GOLTRY (Indicating) "This area."

WARREN "That wouldn't be north."

GOLTRY "It is west, you are right. The applicant owns all of this tract. This whole area could be developed as a commercial corner, and in fact by rezoning, one of the recommendations we made is that it would be okay to extend the commercial zoning to the edge of his property. That gives a nice potential Limited Commercial corner-type of development parcel.

Finally, one thing that does trouble me on the site plan that was provided by the applicant is that there is this 60-foot wide strip of land that is being used to access the 'OW' parcel. Of that 60 feet in width, they have designated the eastern 30 feet as the private road. That would be this 30 feet that adjoins the unused agricultural property to the east. They have designated that that be where the construction vehicles and the movement of goods and materials and equipment be along the edge of the property rather than on the western half of their access. At least if we are going to have Office Warehouse in this area, which consists of outdoor storage, we would urge that you would have them place their access so that the impact of it is more on their own property rather than on the adjoining property owner's property. And further, that there be extensive screening and landscapings to try to minimize the impact of any types of outdoor storage—which is what they are requesting—on the adjacent property owners so that it does not compromise their ability to sue their property in the future for single-family or other low-density residential purposes.

As we said in the staff report, we recommend denial. Should you find that you wanted to recommend approval, we did have those conditions that were oriented toward trying to protect the interests of the adjoining property owner. The findings are contained on Page 4. I will stand for questions."

MCKAY "The applicant owns the commercial property to the west. Who owns the property to the north?"

GOLTRY "The Sedgwick County yard."

MCKAY "And who owns the property to east?"

GOLTRY "Brentwood Development, I believe."

MCKAY "Do you have any idea who that is?"

GOLTRY "No."

PLATT "I want to be clear on what the existing zoning is. Would you please go over that? What is the red?"

GOLTRY "Limited Commercial."

PLATT "And what is the tan?"

GOLTRY "'SF-20' Single-Family."

PLATT "Okay. And what are they proposing now to change?"

GOLTRY "They are proposing that this portion, up to this point (indicating) would be 'LC' Limited Commercial, and this portion would be 'OW' Office Warehouse."

PLATT "And the tan would be all 'OW'?"

GOLTRY "Yes, and part of the red would be 'OW'."

PLATT "So, the whole 'pan' would be 'OW' and the 'pan handle' would be 'LC'?"

GOLTRY "Yes. And I should mention that this did not go to a DAB because this is being processed as a Sedgwick County zoning change and it would not flow naturally to a DAB for comments, although there is city property that was within the vicinity of the notice area."

JOHNSON "Donna, on that county property to the north of this, didn't we have a zoning case on that not too long ago and we did something on that property?"

GOLTRY "It is a BZA special exception, I believe. I have that written in my file. I could look it up."

JOHNSON "Do you remember what the deal was on that?"

GOLTRY "I don't have the conditions of it. I do have the conditions of the BZA that relates to the Nies property."

WARREN "The red area, is it actually designated Light Commercial or is it proposed?"

GOLTRY "No, it is designated. This is an old commercial corner. And if you look at it, we've got old commercial corners on other corners as well. We have some 'LC' here (indicating to the southeast), and some 'LC' over here, and what is called the Cottage Grove Addition. Now, this isn't actually showing as 'LC', but we can certainly see that way Pebble Run 11th has platted itself with this exception that they certainly have some aspirations."

MICHAELIS "Are there any further questions of staff? Thank you, Ms. Goltry. May we hear from the applicant, please?"

RUSS EWY "I am with the Baughman Company, agent for the applicant. I guess we didn't realize how complicated this was when we filed this several months ago."

As was pointed out by staff, we have an existing contractor's yard—a simple metal building that we used to store inside construction materials and various other types of small equipment for the applicant's construction business. It is located right here (indicating), and if you are aware if you have been down in this neck of the woods, Webb Road is currently under construction as is Pawnee. The widening of that obviously brings the road much closer to that building. The building is only set off the road probably 50 feet. It is very close and has been there for a long time.

The applicant is obviously looking to relocate that building that is going to be advantageous, not only to the construction of Webb Road, but also just to get it out of the face of the traveling public who travel Webb Road.

This parcel of ground extends 60 feet east of the traditional 600 foot zoning pattern, so what we are looking to do is simply extend the zoning out to fill in the applicant's ownership. In looking at this property, we felt, with the 20 acres of the county east yard looming to the north of this, we felt that the most advantageous location or relocation of that existing use would be in the back corner of this property, which is why we are proposing a relatively limited area to zone Office Warehouse.

We were in a meeting with staff some time ago under the original assumption that we had asked for General Commercial, which would be the first zoning district in the spectrum of zoning districts which would allow construction sales and service without this business being primarily retail. After discussing this with staff, we felt that Office Warehouse would be the more appropriate district because the fact that it has much higher standards for outdoor storage. You are limited in the amount of outdoor storage that you can have in relationship to your building size. That is why this site plan that we have provided for informational purposes showed a 7,500 foot building with a 7,500 square foot storage area. Whether we would ever store materials to that magnitude, which is quite a small magnitude, or whether or not we would even use that 7,500 square foot would be probably relatively remote.

The construction yard would be used for residential construction business. There would be no heavy equipment either inside or outside on this site. The truck traffic that Donna was concerned about is limited to pick-up truck traffic. There would be no high loaders or backhoes or any of the such going along there. We have limited access to the site to the eastern 30 feet to avoid some sort of maintenance issue with this lost 30 feet which would occur under the staff's proposal. Office Warehouse does not preclude screening the site. We would have to screen the site. We would not be able to stack materials that would be seen from ground view. That is a standard condition of the Office Warehouse district. There would also be landscaping and screening of the commercial to the residential.

The residential that is pending or so very imminent has been on hold since 1994. Pebblebrook Second was proposed in 1994 and had been since closed as a platting file. The property east of Pawnee, to the best of our knowledge, has severe limitations on the ability to extend sanitary sewer to serve that area. So unless and until there is a sewer solution for that property, I don't think we see south of Pawnee, east of Webb Road turning residential any time in the near future.

It was explained to me that the staff support for office warehouse that we assumed was present when we filed the case after meeting with the planning staff—it was explained to us that that had dissolved into a recommendation of denial, based on discussions with the County's Director of Public Works that relocation of the outdoor maintenance yard was eminent. In correspondence with Mr. Spears this morning, he stated that they do not have any intentions of moving at this time; however, it is foreseeable that at some time in the future they may be forced to relocate. He gave us no timetable, no timetable has been discussed. Even assuming that the county would move the storage yard, the fact that there is three existing buildings out there, and it has been an industrial use for 30 years, I don't see a re-use of that particular site as residential. So I think that even if you were to say that the County was to relocate their existing use, I would think that they would either retain that for similar use, or sell that off to a non-residential development.

So having said that, we are adamant that Office Warehouse on a ¾ of a acre tract that is going to sit off of the road some several hundred feet, that will be screened according to the Zoning Code regulations of that zoning district is appropriate for this location. I would stand for any questions."

MICHAELIS "Are there any questions of the applicant?"

LOPEZ "The property is zoned 'LC' right now on the map. Is all of that owned by your applicant?"

EWY "That is correct. Except for that that runs north of the south line, yes. (Indicating) This portion of it is not owned by the applicant."

WARREN "I noticed here in staff's conditions of approval....are you in compliance with the staff's conditions of approval if that is granted?"

EWY "Some of those are redundant. Some of those already occur, based on the Office Warehouse classification. What we are not in agreement with is the construction of a masonry wall. We would be required to provide screening in the form of a screening fence which could be wood. If you have been out to the site, the county yard to the north is not screened at all. It is a woven wire fence. They have outdoor storage of old culverts and snow removal equipment along the eastern extreme of this property, which extends, as you can see, east of what we are proposing to zone Office Warehouse."

WARREN "In lieu of that masonry wall, could you imagine putting some screening along that east line?"

EWY "We would imagine maintaining, say a 10-foot buffer area from our access road and we would be willing to fence that and provide screening in the form of one tree per 40 foot, which I would assume would have been the requirement regardless. But we are not in agreement with providing a masonry wall."

WARREN "I am surprised that maybe in their requirements that there wasn't maybe a Protective Overlay. Would you be interested in a Protective Overlay that would limit it to this site plan and to this use? I didn't see a Protective Overlay.....oh, I see. Up on top, yeah."

KROUT "What you are asking is for this specific use and this specific type of

site plan. That is not part of what we...."

WARREN "Yeah, in other words, tie it to this site plan and to this specific use. That would get it."

MICHAELIS "Are there any other questions?"

WARREN "I would get an answer if I were you."

EWY "Again, not to tie up this meeting, it is a relatively large meeting. We would be able to work on a list of uses that could be appropriate. Office Warehouse does entail some uses that one could see occurring in the future. Again, the applicant doesn't want to be a burden on anybody when this site does become fully urbanized at some point in the future. He may also, under the same presumptions that the County would move their maintenance facility, want to be out of the hair of people that they are trying to build houses for. You could see this being re-used for self-storage warehouse—it could be used for retail purposes. I think there is a whole host of things that the Office Warehouse district could provide—a heating and cooling contractor, an electrician."

WARREN "Don't you imagine that overlay would go for 'LC' zoning? Just make it 'LC' instead of 'OW'?"

EWY "Office Warehouse would permit those uses in 'LC'. You would not need to downgrade. He wouldn't gain anything by zoning that to 'LC'."

BISHOP "I am not sure whether this is the question you asked staff, but how is the drainage in the area? I know from the site plan that with the building and the concrete for parking, etc., there is quite a bit of concrete that will be added in this area. How is the drainage?"

EWY "It flows to the south and then to the east."

BISHOP "Okay. As a board member of the homeowners' association that is catty-cornered about a quarter of a mile to the north and west, which has two lakes that are over-stressed. I wondered if there would be drainage coming from that area."

EWY "No, we would be downstream from you?"

BISHOP "Are you sure?"

EWY "Quite."

BISHOP "There is a whole drainage thing that goes up from there, is that in there?"

EWY "This site drains from the northwest to the southeast."

MICHAELIS "Are there any further questions of the applicant? Thank you, Mr. Ewy. Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition of this application? Seeing none, I will bring it back to the Commission."

WARREN "I have a question for staff. Without going back to the book, is there no way that this could be 'LC' with any kind of a Conditional Use to allow him to do what he is doing?"

KROUT "No. If you remember, you had a case in the back of an existing shopping center recently where the applicant applied for General Commercial, which is the first district that allows contractor's storage along with retail uses."

WARREN "The 'OW' wouldn't have worked for that case."

KROUT "I do want to say, just for the benefit of the applicant and the agent that the 'OW' district does not allow all of the uses that are allowed in 'LC'. It is really stretching it on retail uses. It is meant to be an Office Warehouse district."

WARREN "I think you are saying that to imply that very likely if he did want other uses that he would go for 'LC' here."

KROUT "He would have to come back and ask for 'LC' if he wanted to add all of those things."

MOTION: That the request be approved, predicated on the staff's recommendation for approval, which would be the Protective Overlay, and their three other provisions, including the provision that this be limited to the site plan and use as described, and that we eliminate the masonry wall in lieu of some additional screening as could be worked out with staff.

WARREN moved.

MCKAY "I will second the motion, but just have one question. To make it more clear, Ray—you said for it to be worked out with staff on the additional landscaping—why don't you say like 1-1/2 times the landscaping ordinance. I just want it designated in the motion."

KROUT "I think it is better to clarify."

MCKAY "That is what I am saying."

KROUT "And I think also clarify where the drive is going to be located."

MCKAY "Okay, then one other thing, before I second the motion is that we require them to have their drive on the west side of the 60 feet, that 30 foot."

WARREN "I would like to hear from the applicant on that."

MCKAY "I will go ahead and second the motion, just to get it back on the floor, with those amendments."

AMENDED MOTION: That the request be approved, subject to 1 1/2 times the landscaping ordinance and that we require them to have their drive on the west side of the 60 feet, that 30 foot."

WARREN moved, **MCKAY** seconded the motion.

WARREN "I would like to request the applicant to come back."

PLATT "Before we do that, was the motion to approve the staff recommendation?"

MICHAELIS "No."

PLATT "That is what I thought he said."

WARREN "Well, the motion is to approve the application subject to that approval being subject to the staff recommendations that were made if we chose approval. They have two things. They have one that says to deny and then one that says recommendations if you approve. I am going with the second option."

PLATT "You didn't say that."

MICHAELIS "Okay. Now discussion."

WARREN "Well, I would like to ask....the request was made that they drive on the west 30 foot as opposed to the east 30 foot. I would like to hear what the applicant has to say."

EWY "Again, as I said, I think we would look upon that negatively from the standpoint that it would create a 30-foot strip to the east of us that would be a maintenance issue. Again, we are willing to do a 10-foot instead of a 30-foot buffer that would be landscaped at 1-1/2 times of the Landscape Code."

WARREN "It looks to me like you are going to have to take care of this whichever one you drive on though, Russ. Somebody is going to have to take care of whatever is left."

EWY "That's correct, but we would also be maximizing the available space to the west to allow commercial development to occur on the balance on that Lot 1."

WARREN "Let me ask staff while you are here, is 10 foot enough to give the buffer that you are requiring?"

KROUT "No, or we would have recommended 10 feet."

GOLTRY "The conditions specify the location of two solid evergreens in two staggered rows, or a masonry screening wall for that little access drive, and have two staggered rows of evergreens for...well, I guess if you put in the masonry wall, it would work, but if you are going with the staggered rows of evergreens to form solid evergreen screening, it wouldn't."

WARREN "Somebody tell me what is adequate, then."

EWY "My understanding was that the motion that you had made was the screening wall, not necessarily a masonry screening wall."

WARREN "I didn't have a masonry wall in my motion. But I do want to know how many feet, Marvin, do you need to accomplish this 1-1/2 times more than the requirement?"

KROUT "According to standard, they would need at least 20 feet, I expect."

GOLTRY "Because the diameter of most of your evergreens is going to be 20 to 30 feet. So by the time you are staggering them, you really pretty much need the 30 feet."

MICHAELIS "Donna, can you answer a question, if we have a county yard that is 100 times this size abutting this that is not screened and has outdoor storage, what is the basis for screening this one?"

GOLTRY "The basis is that it is our understanding from earlier conversations with the County that they view this as a current use. It is true that they have no timetable, but they don't view this as something that will be there for posterity. When we look at this zoning case, we have to view it for posterity, so we have to envision what kinds of screening and buffering conditions do you need to ensure that it makes for compatible neighbor with future uses that would be located to the east."

MICHAELIS "But they have said the same thing. They said if the county yard goes, they are going to go because then it would be residential. I think this is crazy to take a little spot and screen it when you have a county yard right north of it."

GOLTRY "We can't do anything about the county yard but we can ensure that this doesn't impact the neighbors to the east or south."

MICHAELIS "Okay."

HENTZEN "The County has replaced, I think, all of their yards in the last 10 to 15 years—the one at Andale, the one at Clearwater and the one down south by the Big Ditch. They have moved a lot of them. I do not know of any one of them that has gone to residential building. So to say that they are thinking about moving this and we have to protect the residential does not seem appropriate."

GOLTRY "I think I perhaps mislead you. I was not saying that the county yard will go residential. I don't believe it will. It is already zoned 'LC' Limited Commercial. What we are looking to protect is the property to the east that is zoned 'SF-20' Single-Family. The property that is east of both the subject tract and east of the county yard. I, too, think we will end up with commercial use on the county yard when it is reused."

HENTZEN "Okay, but the property east is not developed now, is it?"

GOLTRY "No, it is a large, undeveloped tract."

HENTZEN "Okay. But it has to be protected. Okay."

WARREN "I am going to try to re-declare my motion. I may amend it, I am not sure. I think that we could delete the screening requirement on the north to be triggered only after the county yard is moved."

AMENDED MOTION: APPROVE, subject to platting within one year and subject to a Protective-Overlay with the following conditions:

1. The property shall be limited to use as a contractor's storage yard as shown on the Site Plan attached hereto.
2. The eastern property line shall be screened by a screening wall/fence at least six feet in height and by a buffer of trees planted at one shade or evergreen tree every 26.6 feet, with at least 1/3 of the trees being evergreen. Minimum size at installation is 2-inch or greater caliper for shade trees and 5 feet in height for evergreen trees.
3. No materials shall be stored above the height of the screening wall.
4. The drive from Pawnee to the "OW" parcel shall be located at least 20 feet west of the east property line.

WARREN moved.

KROUT "You can't delete the screening requirement."

WARREN "Okay. Lets delete the 1-1/2 on the north then and require just ordinary screening on the north and a 1-1/2 on the east."

KROUT "The north on the 'OW' portion of the property line? Is that what you mean? There is no requirement to the north because that is the yard."

WARREN "Oh, I thought you still had a requirement there. Okay."

MCKAY seconded the motion.

MCKAY "I want to hear from the applicant again."

MICHAELIS "Do you understand the motion? And if so, what is your position?"

EWY "We are comfortable with the motion as stated."

MICHAELIS "Okay. Are there any other questions?"

BARFIELD "This is for staff. Staff says here that one of the surrounding property owners has raised an issue of whether the addition of this use would influence the value of surrounding land for future residential development. My question is is staff of the opinion that if the County were to vacate that property, it would be utilized for residential development?"

GOLTRY "The surrounding property owner is not to the north or the east, he is to the south."

BARFIELD "In the opinion of staff is that if the County were to vacate this property that that property would be utilized for residential zoning or commercial zoning?"

KROUT "Will you put the aerial photograph up?"

MICHAELIS "Why do we need the aerial?"

KROUT "Never mind. I just thought it would be helpful to see the scale and the location of the building in the county yard."

GOLTRY "Okay."

MICHAELIS "Is there any further discussion?"

BISHOP "I would just like to add—I would just like to remind you that the Webb Road in that area is being widened and it includes a bicycle path. That is the kind of amenity that I think is going to encourage development to the east and the south to be developed as probably single-family homes or certainly residential."

Just to the north, not too far, there is another kind of a heavy-duty use that has a masonry wall around it and then there is residential. I think that the chances for further residential being developed are pretty good."

GOLTRY "When you asked about the buildings, (indicating) this is the little church that has been located north of the Sedgwick County Yard, I believe. It is right in that area."

MICHAELIS "Any further discussion?"

VOTE ON THE MOTION: The motion carried with 11 votes in favor. There were 2 votes in opposition (Platt and Garofalo). Blake was not present.

11. **Case No. ZON2001-00023** – Marvel McClellan (Owner/Applicant) request zone change from "B" multi-family to "LC" Limited Commercial on property described as:

Lots 43, 45, 47 & 49, on Pennsylvania, Shirk's Third Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located northwest of the Central Avenue – Pennsylvania Avenue intersection.

BILL LONGNECKER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting consideration for a zoning change from "B" Multi- Family to "LC" Limited Commercial, on Lots 43, 45, 47 & 49, Shirk's 3rd Addition, for an automotive detail shop/car wash. The applicant is in the process of building a 30-ft x 45-ft (1350 sq-ft) building for the proposed business, on Lots 43 & 45. Staff advised the applicant that construction of the building before the zoning request was considered/approved was premature. There is a vacant, existing residential structure on Lots 47 & 49. The applicant is uncertain as to what he will do with the existing residential structure. Access to the proposed business will be through the existing curb cut. The requested zoning to "LC" Limited Commercial will permit the applicant to run an automotive detail shop/car wash. The shop's staff will wash, wax, shampoo, and vacuum non-commercial vehicles in the previously mentioned 1350 sq-ft building. The customers who bring their vehicles for this service will not service their vehicles, the business's staff will. The applicant has stated that there are no automatic washers involved or blow dryers. An automotive detail shop/car wash is a permitted use in "LC" Limited Commercial zoning. There is an automotive detail shop, Ziebert's, located northeast of the Douglas – Washington intersection, in "LI" Limited Industrial zoning. Ziebert's washes, waxes, shampoos, vacuums and installs windshields, sunroofs and alarm systems in vehicles. This activity is classified as vehicle repair limited and a permitted use in "LC" Limited Commercial zoning.

The site has single family residential abutting it on the north (vacant) and south (occupied) sides. Next to the vacant house on the north side is a parking lot for the church on the southwest corner of the Pennsylvania – Central intersection. There are two other occupied single-family residences north of the abutting residence south of the site. Across the unpaved alley (single family residence facing New York Av), on the west side, there is an occupied residence with a stockade fence. All of New York (the next street west) is single-family residences (zoned "B" Multifamily), from the

railroad ROW to the 2nd or 3^d property off of Central. Contemporary Communications, Inc dominates the northwest, northeast and southeast section of Pennsylvania, from the railroad ROW and past Elm. This business is a complex of large buildings that appear to be used for warehouse – shipping – receiving – assembly. There are several vacant lots on Pennsylvania. There are six single-family residences on this stretch of Pennsylvania.

There have been three zoning changes on Pennsylvania (from Central on the south to immediately north of the St Louis & San Francisco RR ROW, a 2 ½ block run) since 1984:

- (a) Z-2540 - From "B" Multifamily to "C" Commercial (now "GC" General Commercial), Lots A & B, Darling Add, on the east and west sides of Pennsylvania, between Elm & Central, approved WCC 10-04-83
- (b) Z-3009 – From "B" Multifamily to "E" Light Industrial (now LI Limited Industrial), Lots 1-15 (odd), Shirk's 3rd Add & 34 & 36, Stites Bros 3^d Add, east and west sides of Pennsylvania, south of the St Louis & San Francisco RR ROW and south of Elm, approved WCC 12-21-90.
- (c) Z-3286 – From "B" Multifamily to "LI" Limited Industrial, on the east side of Pennsylvania, north of St Louis & San Francisco RR ROW, approved 09-22-98.

In these three cases the change has been from "B" Multifamily to a heavy commercial or limited industrial zoning. The uses for these zoning changes have added outside storage/contractors yards, manufacturing and warehouse facilities to this section of Pennsylvania, which has eroded the residential uses on this street. This is an area (Murdock Av on the north – Cleveland Av on the west – Central Av on the south – and I-135 on the east) where the residential uses (all "B" Multifamily zoning) are surrounded or have been penetrated by either "GC" General Commercial or "LI" Limited Industrial zoning. Pennsylvania Av is the foremost example of this area being in transition from residential use to heavy commercial or industrial zoning and uses.

The proposed development will trigger required landscaping (per approval by the Planning Director) and screening along the east, north and south sides of the property. Dumpster needs to be screened.

CASE HISTORY: The property is part of Shirk's 3rd Addition, which was recorded April 16, 1909.

ADJACENT ZONING AND LAND USE:

NORTH:	"B" Multifamily	Residential
EAST:	"B" Multifamily	Residential
	"GC" General Commercial	Warehouse - Manufacturing
	"LI" Limited Industrial	Warehouse - Manufacturing
SOUTH:	"GC" General	Church
WEST:	"B" Multifamily	Residential

PUBLIC SERVICES: Central is classified as a 5-lane arterial and Pennsylvania is a paved residential road. Average Daily Trips (ADT) at the intersection of Hydraulic and Central (1 block east) is 1311 ADTs on the north side, 4604 ADTs on the south side, 19160 ADTs on the west side and 21521 ADTs on the east side. There is gas, water and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Industrial and Office. Industrial is intended for light or heavy industrial uses. The three previous approved zoning changes from "B" Multifamily to either "GC" General Commercial or "LI" Limited Industrial reflect development policies in line with the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is a mixed zoning of residential and non-residential. Between Pennsylvania and I-135, use of the area is predominately for warehouse, shipping – receiving, contractors yards, with office – and local service predominate on Central Ave. East of Pennsylvania, both New York & Mathewson (north of Central) are single family residential. Contemporary Communications, Inc dominates the northwest, northeast and southeast section of Pennsylvania, from the RR ROW and past Elm. This business is a complex of large buildings that appear to be used for warehouse – shipping – receiving – assembly. There are several vacant lots on Pennsylvania. There are six single-family residences on this stretch of Pennsylvania.
2. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is unlikely.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for an Automotive detail shop/car wash on "LC" Limited Commercial is a Permitted Use per the WSC Unified Zoning Code. The current zoning of "B" Multifamily is not called out as suitable for this site by the

Comprehensive Plan; Industrial is.

5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.

LONGNECKER "This item is a request to change from 'B' Multi-family to 'LC' Limited Commercial. The property they are looking to rezone is located right off of the northwest section of Central and Pennsylvania. The applicant is proposing to put in a automotive detail shop on Lots 43, 45, 47 and 49 of Shirk's 3rd Addition. The proposed business would provide wash, wax, shampoo and vacuuming of non-commercial vehicles. These services will be provided by the staff of the business. The applicant has stated that there are no automatic washers involved or blow dryers.

An automotive detail shop car wash is a permitted use in 'LC' Limited Commercial zoning. There is an automotive detail shop by the name of Ziebert's located off the northeast corner of the Douglas/Washington intersection. Although it is in Limited Industrial zoning, they provide a service similar to what the applicant is proposing to do, and they also do windshields, sun roofs and alarm systems in the vehicles.

There have been three zoning changes on this stretch of Pennsylvania which stretches from Central up to just immediately north of the railroad right-of-way here. The zoning changes have all occurred since 1983. They are listed in your staff report. The first one being a change from 'B' Multi-family here (indicating) to 'C' Commercial. That was approved by the Wichita City Council in October of 1983. There was another change, shown here and here (indicating) from 'B' Multi-family to 'LI' Light Industrial, which is now known as Limited Industrial. And then another change 'C', right up here across the tracks where it went from 'B' Multi-family to Limited Industrial. The applicants has started construction of the proposed business. Behind the applicant's site, you can see a stockade fence right behind the unpaved alley, which runs between the applicant's property and the residential, which is along New York Street.

There is a vacant house on two lots of the applicant's property. At this point, the applicant is not sure what he is going to do with that. There is a church and a church parking lot, which can be traced back to the first zoning change that is noted in the staff report where it went from 'B' to Commercial. The Contemporary Communications complex dominates Pennsylvania Avenue from here (indicating) on up to the tracks. Right beyond this building is where Elm Street 'T's' into Pennsylvania. There is a large vacant lot on that corner and then some more of the Contemporary Communications buildings. This is the second zoning change that is shown in the staff report where it went from 'B' Multi-family to 'LI' Limited/Light Industrial. The businesses that on Central at this intersection are a church, an office. Typically along Central here are churches, offices and local retailer businesses.

This area has been in a transition from 'B' Multi-family to Commercial, Limited Industrial. There is a large contractor's yard with a lot of out of outside storage, and again the Contemporary Communications complex takes up the area on Pennsylvania from here (indicating) on over to here. It extends over to Hydraulic. You have Single-Family Residential still being maintained on the block to the west of Pennsylvania, which is New York.

Staff believes, after looking at this site and looking at these particular zoning cases and how this area is developing, that this area is in transition from 'B' Multi-Family, or some type of residential use into some type of industrial or warehousing type of use. The Comprehensive Plan shows this area to be best suited for office or industrial uses. I think the zoning cases that have occurred since 1984 certainly reflect what the Comp Plan is recommending. In other words, you have an area which is not only surrounded by non-residential zoning, but there is actual penetration into the residential zoning by non-residential zoning.

Staff recommends approval of this zoning request. Again, we are basing this on the 5 points of consideration on Page 4. It should also be known that if this zoning request is considered and recommended by the Planning Commission that the business that is going in there would re-trigger required landscaping, screening and also your dumpsters would have to be screened. Are there any questions?"

MICHAELIS "Are there any questions of staff? Thank you, Mr. Longnecker. May we hear from the applicant, please?"

MARVEL MCCLELLAN "I am the applicant for this property. I am in agreement with the staff comments. Mr. Longnecker has been very helpful."

MICHAELIS "Are there any questions of the applicant? Thank you, sir. Is there anyone else in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). The applicant's site and the surrounding area is a mixed zoning of residential and non-residential. Between Pennsylvania and I-135, use of the area is predominately for warehouse, shipping – receiving, contractors yards, with office – and local service predominate on Central Ave. East of Pennsylvania, both New York & Mathewson (north of Central) are single family residential. Contemporary Communications, Inc dominates the northwest, northeast and southeast section of Pennsylvania, from the RR ROW and past Elm. This business is a complex of large buildings that appear to be used for

warehouse – shipping – receiving – assembly. There are several vacant lots on Pennsylvania. There are six single-family residences on this stretch of Pennsylvania. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is unlikely. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for an Automotive detail shop/car wash on "LC" Limited Commercial is a Permitted Use per the WSC Unified Zoning Code. The current zoning of "B" Multifamily is not called out as suitable for this site by the Comprehensive Plan; Industrial is. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.) I move that we recommend to the governing body that the request be approved.

BARFIELD moved, **LOPEZ** seconded the motion, and it carried unanimously (13-0).

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12. **Case No. CON2001-00025** – Burlington North Santa Fe Railroad c/o Gary W. Bunce (Owner/Applicant); Communication Equipment Specialists, Inc. c/o Jeff Edwards (Agent) request Conditional Use for a wireless communication facility on property described as:

A parcel of land situated in the city of Wichita, county of Sedgwick, state of Kansas, lying in the southwest quarter of the northwest quarter of section four (4) township twenty-seven, (27), south, range one, (1), west of the sixth, (6th) Principal Meridian, being a portion of that certain 13.79 acre parcel of land described in deed between Samuel and Cecelia Goldstein and a.m. and Florentine Goldstein, grantors, and the Atchison, Topeka and Santa Fe railroad company, grantee, (predecessor in interest to the Burlington Northern Santa Fe railway company), dated September 25, 1912 as recorded in book 279, page 284 on January 25, 1913 in the official records of Sedgwick county, Kansas, being bounded as follows:

On the north by a line lying 405 feet southerly of, normally distant from and parallel with the north line of the southwest quarter of said northwest quarter;

On the south by a line lying 555 feet southerly of, normally distant from and parallel with the north line of the southwest quarter of said northwest quarter;

On the east by a line lying 50 feet easterly of, normally distant from and parallel with the west line of said 13.79 acre parcel of land;

On the west by the west line of said 13.79 acre parcel of land.

The above described parcel of land containing an area of 0.172 acres, more or less. Generally located north of 25th Street North and east of Broadway (2700 North Broadway).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: Burlington Northern Santa Fe railroad is seeking a Conditional Use to permit the construction of a 110-foot high self-support lattice tower (see attached elevation view labeled Exhibit "J") to mount a microwave antenna to support railroad dispatching and other telecommunication needs. The proposed site is zoned "GI" Limited Industrial. The Unified Zoning Code permits Wireless Communication Facilities up to 150 feet in height in the "GI" General Industrial zoning district with an Administrative Permit; however, the request for an Administrative Permit at this location was denied due to its lack of conformance with the Wireless Communication Master Plan (see attached letter dated March 6, 2001 on CON2001-00019). Therefore, the applicant is appealing the decision to deny the Administrative Permit to the MAPC through this request for a Conditional Use.

The proposed self-support lattice tower would be sited on a 0.172 acre area located north of 25th Street North and east of Broadway (2700 N. Broadway) within the existing railroad yard (see attached site plans labeled Exhibit "C", Exhibit "F", and Exhibit "L"). The site plans show a compound enclosed with an six-foot high fence to be constructed of an undisclosed material with barbed wire at the top of the fence. The tower would be located at the northern end of the compound with the ground-level communication equipment located within an existing building located south of the compound. The site plans show that access would be provided to the site through the existing railroad yard to 25th Street North. No landscaping is shown on the site plan.

The character of the surrounding area is commercial and industrial with the railroad yard to the north and south, various industrial uses (including existing communication towers) to the east, and various commercial uses to the west along Broadway. The properties to the north, south, and east of the site are zoned "GI" General Industrial. The properties to the west across Broadway are zoned "GC" General Commercial.

The application indicates that the proposed tower is needed for part of a microwave-based railroad dispatching and telecommunication system for Burlington Northern Santa Fe Railroad (see attached letter dated April 5, 2001). The justification for the request indicates that the applicant is unwilling to use a self-support lattice tower located approximately 1,400 feet to the northeast for two reasons. First, the applicant indicates that they desire to maintain control and ownership of the microwave communication facilities due to safety concerns regarding potential damage to the communication equipment if it is located on a leased site and the implications the damaged communication equipment could have on the safety of railroad operations. Second, the applicant indicates that adding a repeater site to the existing self-support lattice tower would cost more than twice as much as constructing a new tower on their property (see attached cost comparison labeled Exhibit "K").

The application also indicates that a self-support lattice tower is needed rather than a monopole tower that is typically required. The applicant indicates that a monopole tower does not sufficiently limit "twist and sway" and that a self-support lattice tower is more stable, which is important to ensure that microwave links are not broken.

CASE HISTORY: A request for an Administrative Permit (CON2001-00019) was denied on March 6, 2001.

ADJACENT ZONING AND LAND USE:

NORTH:	"GI"	Railroad yard
SOUTH:	"GI"	Railroad yard
EAST:	"GI"	Various industrial uses including communication towers
WEST:	"GC"	Various commercial uses

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through an existing railroad yard to 25th Street North, a paved local street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1,400 feet northeast of the proposed tower that could be used. Second, the proposed 110-foot high tower does not minimize the height, mass, or proportion of the facility. The applicant indicates that if the existing tower to the northeast were used, only a 65-foot high tower would be needed on the applicant's property. Additionally, it is the opinion of planning staff that a tower is not necessary and the microwave antenna could be mounted to the building on the site and still provide "line of sight" between the railroad yard and the existing tower to the northeast. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "self-support lattice" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 110 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPC, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is commercial and industrial with the railroad yard to the north and south, various industrial uses (including existing communication towers) to the east, and various commercial uses to the west along Broadway. The properties to the north, south, and east of the site are zoned "GI" General Industrial. The properties to the west are zoned "GC" General Commercial.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GI" General Industrial and is developed with an industrial use. Wireless communication facilities up to 150 feet in height in the "GI" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "GI" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing buildings and landscaping on and around the site do not adequately obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on residential properties to the west.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1,400 feet north of the proposed tower that could be used. Second, the proposed 110-foot high tower does not minimize the height, mass, or proportion of the facility. The applicant indicates that if the existing tower to the northeast were used, only a 65-foot high tower would be needed on the applicant's property. Additionally, it is the opinion of planning staff that a facility shorter than 65-feet, perhaps even an antenna mounted to the building on the site, could be used to provide "line of sight" between the railroad yard and the existing tower to the northeast.
5. Impact of the proposed development on community facilities: Access to the site is proposed to be from 25th Street North, a paved local street, so no negative impacts on community facilities are anticipated.

KNEBEL "This item is a Conditional Use request for a communication tower. The applicant is Burlington Northern Santa Fe Railroad. It is a request for a 110-foot high self-support lattice tower to support microwave communications in conjunction with the operations of the railroads at this location and throughout the country. The site is zoned General Industrial, which does permit administrative approval of communication towers up to 150 feet. There is a letter in your packets indicating the reasons that staff is not granting approval for this particular site, and therefore the applicant has appealed staff's decision on this particular application by filing this Conditional Use request.

The site is in the middle of the maintenance yard. There is a building there now that houses communication equipment and is actually an upgrade of an existing communication facility. (Indicating) This is the self-support lattice tower that the applicant is proposing to use. The existing wireless facility is essentially an antenna mounted between two telephone poles at this point.

To the northeast of the application area is this existing tower (indicating), which is the essential focus of staff's recommendation on this particular request. That tower is located about 1,400 feet to the northeast. To the east and southeast there are a couple of other towers, to the southeast this is the commercial property to the southwest and to the northwest of the site. The applicant has provided quite a bit more documentation for the Conditional Use request than was provided at the time that staff considered this and originally recommended the administrative permit for denial. We are sticking with our recommendation regarding denial due to the fact that there is the existing tower in that vicinity, and we do feel that it is at least a possibility to utilize that existing tower in conjunction with an antenna mounted on that building, rather than building a new tower in this particular location.

In my opinion, I think the applicant has provided good information for this Commission to consider regarding their reasons why they would prefer to use a new tower at this location. Essentially, the biggest one in their mind, I think, is the cost, but they also mentioned concerns regarding safety if they were to place their microwave dish on a tower that had access to other users, and they were concerned that this antenna might get damaged, which would lead to unsafe conditions for railroad operations.

As I mentioned, the Planning staff is recommending it for denial, based on the fact that there is the existing tower and it could be utilized. The applicant has agreed that it is possible to utilize it. If, however, the Planning Commission feels that the request is reasonable and appropriate, we have listed a set of pretty standard conditions under which the request should be approved, if that is your decision. The findings for denial are on Pages 4 and 5. The District Advisory Board did hear this request and did recommend it for approval."

MICHAELIS "Are there any questions of staff?"

BARFIELD "What is the height of the existing tower?"

KNEBEL "I think it is 350 feet. Did you mean the one 1,400 feet to the northeast, or the existing one on the site?"

BARFIELD "The existing one on the site."

KNEBEL "That is probably more like 45 or 50 feet. I don't know that I have that information. Perhaps the applicant can provide that answer for you."

MICHAELIS "Are there any other questions of staff? May we hear from the applicant, please?"

PLATT "Mr. Chair, as I have in the past, as an owner and present member of the Board of Directors of a building actively leasing space to communication towers, I will step down."

MICHAELIS "Thank you. Applicant, please."

GARY BUNCE "I am the Director of Telecommunications Engineering for Burlington Northern Santa Fe Railroad. In answer to the question, that existing structure is 65 feet tall. In response to the denial, Burlington Northern really does seek to install that 110-foot tower there to replace that 65-foot structure. We are not asking to establish a new business, we are not asking to become a commercial wireless carrier and we are not asking to become a tower speculator to lease space. What we are asking to do is to continue our operation as we have done for the past 30 years. That system was established 30 years ago, and has been in continuous operation at that particular location for over 20 years.

Over the past 30 years, our equipment has changed, the railroad's needs have changed, and due to obsolescence now, we need to put in new digital radios. Those new digital radios would sustain our operation now and into the future. The new digital radios have different requirements than the old radios did. One of those requirements causes our engineering needs to request that 110-foot elevation, rather than the 65 feet.

BNSF has raised safety to the next level and our response to that safety need is an internal need, but it is also in response to heightened concerns over the safety of the general public. Safety has become a priority that guides us in all of our engineering endeavors now. The driving need for that safety requires greater reliability in our communications systems, and to get that greater reliability is the reason we have asked to go to the 110-foot level.

In our engineering department, we have put a great deal of thought and expertise into the concerns of staff and also into the alternatives available to us. We feel that it is, in fact, necessary, because of the safety concerns, because of the reliability concerns that we request that we put that tower in that location, and at that height. Again, I would point out that ours is not a commercial wireless service. We are, by the definition, in the Wireless Communication Master Plan in Appendix A, 'a wireless communications system licensed to one user for exclusive use and not to be shared with or leased to others'. That definition is for a private dispatch system. That fits us, even though we are a large company. It is still a private dispatch system.

In Section 'C' entitled 'Unprotected Services', Subsection IV, it states that 'private dispatch systems should continue to be regulated separately from commercial wireless communications, and that is for which the plan was developed. The section goes on to say, 'in reference to private dispatch systems, their purposes are narrowly drawn by the FCC and their use is truly accessory. Later in the same section, it states that the guidelines proposed as policies in the plan should not apply to these license holders. As a private dispatch system, and a private FCC license holder, I would submit that our request falls outside of that plan.

In our desire to be good corporate citizens, we have, in fact though, applied for the permit required to build that facility. I emphasize that ours is a private closed system. It is part of a 22 state network for the private use of Burlington Northern Santa Fe. That system carries all of our communications, our signals, our command and our control information to safely run our trains. Individual site locations on a microwave system are a unique part of that system. Each site is mutually dependent upon the other site—the site that is next to it. It is commonly believed that all wireless systems are the same. The notion that all systems operate like PCS or like cellular systems where you can place an antenna in many different places and it will still work for that general area—for microwave radio, that is simply not true. They are limited design points.

Microwave systems are not capable of operating satisfactorily in non-specific locations. Each site is selected in an absolute location, dictated by system engineering parameters. Thirty years ago, those engineering factors were designed into the system to support our operation at its present location. To significantly change a site is to compromise that system. To compromise that system is to negate the safety that it provides, and the liability that it provides. That compromise carries with it inherent risk and culpability.

Our responses were provided to staff in writing. I think we responded to almost all of the issues that were raised. I would assume that each of you have been provided copies of our responses to those answers. I am reluctant to take the time to go ahead and address at length all of these different items that I am sure all of you have studied, but I would be more than happy to answer any questions that do arise for us."

MICHAELIS "Are there any questions for Mr. Bunce?"

HENTZEN "Are you an engineer in this field?"

BUNCE "Yes, I am, sir."

HENTZEN "Thank you."

BARFIELD "Even though you are a private company and you are applying as a private company, would you have any objection, if this were to be approved, to increasing the height of this so that you could accommodate, in the future, co-existing locators?"

BUNCE "Our main objective, of course, is to provide our own use. In all cases, when we put a tower up, we do plan for co-locators on it, just as all counties and all cities ask for. We do make those plans, and this one is just the same. It has been planned for.

I tend to agree with staff that that tower that is to the northeast is a very good location for other types of communications, and I would think that extending our height would probably be in opposition to using that tower. If that is your request, we could raise it to a higher elevation. I am not sure staff would want us to, but I would be willing to do that, yes."

MCKAY "Sir, is there a reason why you are not using a monopole over a lattice pole?"

BUNCE "Yes, sir. We have done extensive study on monopoles, and monopoles work very, very well in an omni-direction system, much like PCS, or Cellular, but when we put a dish on a monopole, a 6 foot dish has a beam width of approximately a little more than 2 degrees. That cannot twist, sway or move much less than half that distance. A monopole that has the rigidity to support those needs becomes very, very large, and you do away with the aesthetic differences between that and a lattice system. To be quite honest, Burlington Northern is as interested in economics as everyone else is, but when you go to that very, very large monopole, the prices just go completely through the ceiling. They are very, very expensive."

MCKAY "I just know that they are all over the country. That is the reason why I asked that question. I'm talking about with the dish that they are talking about."

BUNCE "And usually they are small, 2 gigahertz dishes, because the 2 gigahertz dishes are what support the PCS companies, and that same dish, a 4 foot dish at PCS frequencies, has an 8 degree beam width, which is a much larger beam width. You have a lot more latitude in which it can twist and sway. Ours is at 6 gigahertz, and that beam width is very, very narrow and does not allow us latitude to move in the wind in any kind of environmental causes."

MICHAELIS "Thank you, sir. Is there anyone else here wishing to speak in favor of this application? Is there anyone here wishing to speak in opposition? Seeing none, I will bring it back to the Commission."

BARFIELD "I have a question for staff. If this were to be approved, would you be in opposition to increasing the height of this?"

KNEBEL "I think that is contrary to the policies that have been established. The Wireless Plan is quite clear that the height should be limited to the height that is needed at the time the application is made. I think you would be opening up quite a few applications to where people would say 'we only need 120 feet for this particular user, but somebody might need 180 feet, so we want to build it 180 foot tall'."

BARFIELD "I am just thinking about the future. If we are going to approve the area, I think it would be feasible to have someone else co-locate as opposed to building another tower in that same proximity."

KNEBEL "The existing tower—the 350 or so foot tower to the northeast would be capable of meeting the needs that you are indicating you think might arise in the future."

HENTZEN "Scott, do you or anybody in your department have an engineering background for this type of expert decision?"

KNEBEL "No, sir."

HENTZEN "Well, I want to tell you something, fellas. This was requested for an administrative permit. In other words for the department to give it if they thought it was correct. I want to tell you that I spent some time up there, and even in your report it says 'no landscaping is shown on the site plan', which seems to indicate that the site plan is inadequate. The fact is that this is right in the middle of heavy industrial railroad yards. Secondly, as I read some of your remarks 'officially, it is the opinion of the Planning staff that a tower is not necessary, and the microwave antenna could be mounted to the building on site. Now, where do you base that judgment, if you don't have engineering background?

On Page 4, Item F, it says 'the applicant shall obtain FAA approval regarding objects affecting navigable airspace and impacts to terminal instruments procedures for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection and Director Airports prior to the issuance of a building permit'. Now, what does that tower, at that location, have to do with an airport?"

KNEBEL "Are you wanting me to answer these questions, or wait until you finish?"

HENTZEN "No. I am just saying that if we allow for administrative permits, somebody needs to take facts into consideration and not just deny everything. That is all I have to say about that."

MARNELL "I tend to disagree with some of the testimony I have heard. The monopoles will, in fact do support microwave antennas all over the country, and they do in higher frequencies as well as the lower frequencies. So if we are going to require other applicants to go to the monopoles for aesthetic reasons, just because it is a railroad and sits in a railroad yard, it is adjacent to Broadway, and if the objection is that they are visible, then it needs to be a monopole. I think I disagree with staff's assessment that this maybe shouldn't be slightly higher than that following Mr. Barfield's reasoning. If it is going to be capable of co-location, if you build it for specific use and don't put enough space on it, then it is not built for co-location and that would be pretty short. And that is in an industrial, which you couldn't get a better site. So I think maybe the requirement ought to be higher for the tower, even if they only use it at 110 foot, probably 120 or 125 foot would be appropriate in that kind of an area."

KNEBEL "The one thing I might mention is that the Code that was adopted does indicate that if you do build that higher and that proportion of the tower is unused for a 12 month period, they are then required to bring it down. So I think you might be putting them in a position that they are perhaps not interested in being in if they are unable to utilize the higher portion—going to a greater expense and then having to undo something that they didn't necessarily want to do in the first place."

KROUT "We have also sometimes required that the tower be built with the capacity to add a second to it on top. That would be, I think, a better solution than to require them to build taller than they need to. But we really think that the tower that is very near by has plenty of capacity to meet the needs for that area without having to build taller in this case."

GAROFALO "Maybe Commissioner Marnell can answer this. He is more of an expert than I am. Can a monopole be added to?"

MARNELL "Uh huh. If it is designed in advance for it."

GAROFALO "With no problems then. Okay."

MICHAELIS "Are there any other questions of staff? Is there anyone else wishing to speak in favor of this application? Is there anyone else wishing to speak in opposition? We will bring it back to the Commission."

MOTION: I move that we recommend to the governing body that the request be approved, subject to staff comments, with the exception of Item C, which would be that it be a monopole-type antenna as opposed to a lattice tower.

MARNELL moved, **LOPEZ** seconded the motion.

MICHAELIS "Is there any discussion?"

HENTZEN "I am going to oppose that motion. I think that the applicant is entitled to decide what they need and build and not have to come in here and substitute our judgment for their technical expertise. So I am going to vote against that motion."

MICHAELIS "I am going to ditto that comment. For the same reasons."

WARREN "I feel the same way. I do think that we need to be fair about who we ask to build a monopole and who can build a lattice. But in that location, I just feel that maybe with economy might be the best way to go. So I am going to oppose the motion, based on that. I am all for what they are doing, but I am not for making them build a monopole."

BISHOP "I am going to support the motion, and I would just like to say that I don't have a lot of experience in the plan for communication towers and microwave towers, but I do think that is a case in terms of safety and we have control over where they go, pretty well, and based on that I plan to support the motion."

BARFIELD "I am going to make a substitute motion."

SUBSTITUTE MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "self-support lattice" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 110 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.

- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions up to a total height of 150 feet.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. Any violation of the conditions of approval shall render the Conditional Use null and void.

BARFIELD moved, **WARREN** seconded the motion.

HENTZEN "I would like to ask the motion maker to eliminate Item F. At 110 feet, the airport doesn't have a cotton pickin' thing to say about."

BARFIELD "I wouldn't be willing to do that."

MICHAELIS "Okay. Is there any other discussion on the substitute motion?"

BISHOP "I have a problem with the logic here. Maybe there is something I don't understand. If the reason that the applicant did not want to locate on the nearby tower, according to the guidelines, was to have total control, they did not want to co-locate with anyone, it doesn't make any sense to require them to even have the capacity for creating room for co-location."

MICHAELIS "We aren't doing that now."

BISHOP "I thought that was part of the motion."

MICHAELIS "No. We aren't going to have that."

BARFIELD "We aren't going to have that, and the applicant has already stated that they would agree to co-locate."

MICHAELIS "Is there any other discussion on the substitute motion?"

VOTE ON THE SUBSTITUTE MOTION: The motion carried with 9 votes in favor (Warren, Johnson, Michaelis, Garofalo, Warner, Coulter, Bishop, Barfield and Hentzen) and 3 in opposition (Marnell, McKay and Lopez). Platt abstained.

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13. **ZON2001-00031** – Keith E. Parker and Carl Chuzy, Trustee, Carl Chuzy Living Trust (owners) request to expand office/warehouse building onto existing parking lot, on property described as:

The East Half of McKnights Reserve, McKnight Place, an Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the southwest corner of English and Kansas.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

This is an application to rezone the southwest corner of Kansas and English in order to expand an existing building located at the southeast corner of Hydraulic and English. The existing building has three to four offices. The applicant would like to expand the main building eastward by approximately 60 feet to add more warehouse space for an HVAC contractor. This requires rezoning of the property from its current "B" Multi-Family zoning.

The property is currently used as a parking lot for the existing building. Prior to 1988, parking for adjacent commercial uses was allowed "by-right" in the "B" district. Also, it appears to be used as shared parking for the nearby church, Metropolitan Community Church.

Most of the surrounding land is developed with multi-family residential uses. There are duplexes and some small apartment buildings across the street to the east, and four-plexes on the south to Waterman. The block south of Waterman is in single-family use. It was developed as McKnight Place in the 1930s and is a well-maintained single-family enclave.

The block to the north has a variety of residential uses (single-family, multi-family) and the church that was originally built as a Jewish synagogue. It is an undesignated potential historic site. The land west of the application area fronts onto Hydraulic. Hydraulic is developed with a mix of commercial/office/residential uses.

CASE HISTORY: The property is platted as Reserve A of McNight Place Addition. A zoning request (Z-2430) from "B" Single-Family to "BB" was approved April 18, 1982; this case was closed and denied December 7, 1983 for failure to plat.

ADJACENT ZONING AND LAND USE:

NORTH:	"B" Multi-Family	Single family residences, duplexes, apartments, church
SOUTH:	"B" Multi-Family	Four-plexes
EAST:	"B" Multi-Family	Apartments, duplexes
WEST:	"GC" General Commercial	Office/warehouse

PUBLIC SERVICES: Access for the existing building is from Hydraulic, a five-lane arterial street at the corner of Douglas and Hydraulic; tapering to a four-lane arterial. The 2030 Transportation Plan identifies Douglas/Hydraulic intersection as having light congestion in the future. Traffic counts for 1999 were approximately 7,000 ADTs on the south leg of the intersection and 14,500 and 15,150 on the east and west legs of the intersection, which is well below the streets capacity.

Loading docks are situated on the back of the building. These docks have access from the parking to English or Kansas.

Public water and sewer services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as residential with commercial along Douglas, reflecting the current zoning and land use pattern, including the existing office/warehouse adjoining the request site.

RECOMMENDATION: The expansion of the building into the eastern half of the block fronting onto Kansas will introduce the first commercial use on Kansas between Douglas and Waterman, where Kansas ends. The current use of the rezoning application area as a parking lot serves as a buffer between the commercial orientation on Hydraulic and the residential nature of Kansas. The parking lot is set back approximately 50 feet from the property line and has a nice stand of mature trees about 10 feet further east in a grassed yard area. Even though there are loading docks on the rear of the building visible from Kansas, the mature trees and the exceptional width of the grassed yard help soften the effect.

The proposed building expansion would occupy roughly half of the area requested for rezoning. The building expansion could be done in a manner to properly screen the loading docks from view of the residences across the street, keep a building setback well behind the building line of the four-plexes to the south, and preserve the existing mature trees. In this case, the addition should not pose a significant change to the existing mix of uses on the block.

Based on these considerations and upon information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED, subject to a Protective-Overlay with the following conditions:

1. There shall be a building setback of 75 feet from Kansas.
2. No parking areas or additional paving shall be located closer than 25 feet from the property line on Kansas. This area shall be maintained as a landscaped street yard per the Landscape Ordinance. The existing mature trees on the lot must be protected during and after construction and any existing tree that is removed shall be replaced with trees of at least 4 inch caliper.
3. No building signage or ground or pole signage shall be permitted.
4. No outdoor work or storage areas shall be permitted. All loading docks and trash receptacles shall be screened from view of residential zoning districts.
5. No additional access openings shall be permitted onto Kansas or English.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land north, east, and south is zoned "B" Multi-Family and is a mix of single-family, duplexes, four-plexes, and apartments. Also, there is a church across the intersection of Kansas and English. The existing building fronts onto Hydraulic and is zoned "GC" General Commercial. Land uses along Hydraulic from Douglas to Waterman vary, and include a convenience store, the office/warehouse (use for which the expansion is requested), offices and a few residential structures.
2. The suitability of the subject property for the uses to which it has been restricted: The parking lot as an ancillary parking lot was a permitted use in the "B" district in the past. If the applicant had been seeking to establish a parking lot under the current Code, it would have required "Conditional Use" approval.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning to "OW" could cause other property owners along Kansas to seek commercial use, which would be detrimental to the residential character of the neighborhood. The protective overlay provisions to keep the building line of the commercial use well behind the building line of the four-plexes to the south, plus other provisions for screening, landscaping, and limitation on signage should keep the impact to a minimum of being a modest expansion of an existing use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is not in conformance with the Wichita Land Use Guide for institutional uses; however, none of the existing uses in the vicinity (zoned "B" and "GC") except the church are in conformance with the Plan.

5. Impact of the proposed development on community facilities: None other than a small potential increase in commercial traffic on local streets.

Garofalo chaired the meeting in Michaelis' absence.

GOLTRY "This is a request to rezone the property located on the corner of English and Kansas. It is the back half of an office warehouse building that has a heating and air conditioning business located in this area, to expand the building back into this vicinity (indicating). So they are requesting that the property be rezoned from 'B' Multi-family to 'OW' Office Warehouse. The subject tract that is requested for rezoning is somewhat unique in the fact that it has some nice, mature trees with an extra deep setback. I think it is about 40 feet from the property line to where the parking begins. (Indicating) That has been used as a parking lot for the building. The building fronts onto Hydraulic. While most of the property in the vicinity is zoned 'B' multi-family, it is used for a variety. There are mostly single-family houses in the block to the north. To the northeast, what we have is the old Jewish Synagogue that is now the Metropolitan Community church. It is a undesignated potential historic resource.

Directly across the street is a tri-plex and duplexes and some more apartment buildings. There are four-plexes down the corner of Waterman, and further down, across Waterman, you go into an area that is called the McKnight Addition. It is a very lovely, single-family neighborhood that is kind of a little pocket tucked away behind Hydraulic and Waterman and the Canal.

While the requested rezoning is not in conformance with the Comprehensive Plan, which recommends residential, with commercial being just located along Douglas, and while the requested rezoning would push, for the first time, commercial from the Hydraulic half of the block to the Kansas half of the block, staff is recommending that this application for 'OW' Office Warehouse be approved, subject to a Protective Overlay conditions to ensure that the building expansion will minimize its impact on the residential uses to the east. If you will look down at the center part of Page 3, we have reiterated that. We say 'the proposed building expansion will occupy roughly half of the area requested for rezoning and if it is done in a manner to properly screen the loading docks from view, to keep a building setback well behind the building line of the four-plexes to the south, and preserve the existing mature trees', we do not think it should pose a significant change to the existing building that has been there for at least 10 to 15 years.

I would like to suggest that the applicant has contacted us and had a couple of comments to make on a couple of our Protective Overlay conditions and has made some recommendations. We have discussed those and, so if you will follow with me through the conditions.

Condition No. 1 is that there shall be a building setback, and we had called for 75 feet. Seventy-five feet is ample from the standpoint that it gives him an additional 20 feet from the proposed building that they are locating on the property. Based on the site plan that was provided, the applicant had requested lower than that. What we would suggest is that we believe that a 50-foot setback is still larger than it would normally be. Also, the 50-foot setback would keep the setback behind the front line of those four-plexes to the south. So once again, you know, you are trying to keep that building line back behind the residential building line so it is less intrusive on the surrounding residential areas, and it would be able to maintain that mature line of trees, and keep the parking where it is. So, staff is in agreement that so long as this doesn't mean removing the mature trees or moving forward of the existing setback, (line of adjoining four-plexes), that the setback could be reduced from 75 to 50 feet.

No change to suggest on Condition No. 2 or Condition No. 3.

On Condition No. 4, the applicant has discussed that the main user of this building has an occasion to have contractors come and pick up heating and air conditioning equipment at night and needs a place for them to be stored where they can get to them. Of course, staff's position is that these shouldn't be something that would be visible from the surrounding residential uses. So what we are suggesting is that there is a limited amount of outdoor work and storage area that would be allowed behind the building, but that it would be screened so that it would not be visible from the properties across the street or over the top of it. In fact, the wording I would suggest is: 'outdoor work and storage areas shall be limited to 800 square feet in maximum size and to be screened. No materials shall be visible from the top of the screening wall or fence or from Kansas Avenue'. That would allow a small amount of outdoor storage area—something that we could discuss today.

Condition 5 stands as it is. Findings are contained on Page 4 and I will stand for questions."

GAROFALO "Are there any questions of staff? If not, may we hear from the applicant?"

KEITH PARKER "Mr. Chair, members of the Commission, I am appearing on behalf of the applicants. This property has been owned for almost 20 years by the same people. The building is approximately 13 years old, and there is a new tenant involved in the center section of this building who has requested some additional space. He is a new industry in Wichita. They have facilities in Kansas City, Springfield, Des Moines and other places. One of the unique features of their business is that they have a little outdoor storage yard that is fenced in cubicles—and I think three is the maximum—to where a contractor or a purchaser can come after hours with a code that he gets on his forwarder number and open the gate and get his material and be in business before or after normal working hours. It is a convenience that seems to work and they have asked that we try and provide this in this facility.

We have maintained a 40-foot yard adjacent to Kansas Street there for all of these years and we try to maintain a row of mature trees that were established already on this site. We have done that successfully and we are in agreement with staff comments.

The 50-foot setback would encroach on the existing pavement by approximately 3 feet. I don't think that is a problem. That would be along the parking right there (indicating). So 50 feet from Kansas would be there. It would maintain the existing mature landscape and I don't feel that that is a detriment to the building. Seventy-five feet comes up to about 20 feet from this projection here, which could, in the future, force us to be back here talking to you if somebody wanted another 10 feet, or if this guy wanted another 10 feet. That is the reason for the change there. I would be glad to answer any questions."

BARFIELD "Are you in agreement with the staff comments, sir?"

PARKER "Yes, sir."

GAROFALO "Are there any other questions? I have one. You said these people would come to pick up equipment after hours if need be. The equipment would be inside the fence?"

PARKER "Inside a screened, secured storage area. Okay? And it may have two cubicles in there. They have a touch pad that allows a certain border to move in and take his material."

GAROFALO "So any outdoor storage would be secured and screened?"

PARKER "And screened, right."

GAROFALO "Okay. Are there any other questions? Is there anyone else here to speak in favor of this application? Is there anyone to speak against it?"

GOLTRY "I omitted to tell you that the DAB meeting has not been held on this because it was postponed. It was cancelled last week and is postponed until May 21."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The land north, east, and south is zoned "B" Multi-Family and is a mix of single-family, duplexes, four-plexes, and apartments. Also, there is a church across the intersection of Kansas and English. The existing building fronts onto Hydraulic and is zoned "GC" General Commercial. Land uses along Hydraulic from Douglas to Waterman vary, and include a convenience store, the office/warehouse (use for which the expansion is requested), offices and a few residential structures. The suitability of the subject property for the uses to which it has been restricted: The parking lot as an ancillary parking lot was a permitted use in the "B" district in the past. If the applicant had been seeking to establish a parking lot under the current Code, it would have required "Conditional Use" approval. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning to "OW" could cause other property owners along Kansas to seek commercial use, which would be detrimental to the residential character of the neighborhood. The protective overlay provisions to keep the building line of the commercial use well behind the building line of the four-plexes to the south, plus other provisions for screening, landscaping, and limitation on signage should keep the impact to a minimum of being a modest expansion of an existing use. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is not in conformance with the Wichita Land Use Guide for institutional uses; however, none of the existing uses in the vicinity (zoned "B" and "GC") except the church are in conformance with the Plan. Impact of the proposed development on community facilities: None other than a small potential increase in commercial traffic on local streets.) I move that we recommend to the governing body that the request be approved, subject to the following the following conditions of Protective Overlay No. 98.

APPROVED, subject to a Protective-Overlay with the following conditions:

1. There shall be a building setback of 50 feet from Kansas.
2. No parking areas or additional paving shall be located closer than 25 feet from the property line on Kansas. This area shall be maintained as a landscaped street yard per the Landscape Ordinance. The existing mature trees on the lot must be protected during and after construction and any existing tree that is removed shall be replaced with trees of at least 4-inch caliper.
3. No building signage or ground or pole signage shall be permitted.

4. Outdoor work or storage areas shall be limited to 800 square feet maximum size, which shall be secured with locks and screened from view. No materials shall be visible from the top of the screening wall/fence or from Kansas Avenue. All loading docks and trash receptacles shall be screened from view of residential zoning districts.
5. No additional access openings shall be permitted onto Kansas Avenue or English.

LOPEZ moved, **MCKAY** seconded the motion.

GAROFALO "Is there any discussion?"

MARNELL "Did staff comments change so that we can say 50 feet instead of 75 feet?"

GAROFALO "Yes."

MARNELL "Okay, thank you."

VOTE ON THE MOTION: The motion carried with 13 votes in favor. There was no opposition.

Michaelis returned to the chair.

14. **Case No. ZON2001-00030** – Roger J. Haag (Owner/Applicant) and Baughman Company, P.A. c/o Phil Meyer (Agent) request zone change from "RR" Rural Residential and "SF-20" Single-Family Residential to "LI" Limited Industrial on property described as:

Parcel 1: A 2 acres square form in the Southeast corner of the Northwest Quarter, Section 9, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

Parcel 2: The South Half of the Northeast Quarter, Section 9, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas EXCEPT a 24.55 acre tract taken by Condemnation Case B-321 for Park purposes and except beginning 1196 feet North of the Southeast corner; thence West to 600 feet; thence North to the North line of the South Half; thence East to the East line; thence South to beginning. Generally located south of K-42 and west of Ridge.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is requesting to rezone a 55.5 acre unplatted tract located south of K-42 and west of Ridge from "RR" Rural Residential and "SF-20" Single-Family Residential to "LI" Limited Industrial. The site is currently used for agriculture. The applicant is seeking the zone change to develop the site as an industrial park with ½ to 1 acre lots.

The surrounding area is on the urban fringe of Wichita with much of the land in the area still used for agriculture. In terms of developed properties, Mid-Continent Airport and the Cessna and Case manufacturing plants dominate the character of the area. The property north and west of the site is zoned "SF-6" Single Family Residential and is undeveloped property owned by Mid-Continent Airport. A small tract north of the site located at the southwest corner of K-42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years to allow agriculture implement sales; however, the business has yet to be developed. The property northeast of the site at the southeast corner of K-42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years and is under development as a central parts distribution facility for Cessna. The properties east and south of the site are zoned "RR" Rural Residential and "SF-20" Single-Family Residential and are used for agriculture. The nearest residences to the site are located in the Prospect Park neighborhood to the southeast across Ridge on property zoned "SF-20" Single-Family Residential and "SF-6" Single-Family Residential.

The site is located within Area A of the Wichita-Sedgwick County Airport Hazard Zoning Map and is located under the approach to Runway 19C at Mid-Continent Airport. Properties within Area A require an Airport Hazard Zoning Permit Exemption for structures to exceed 25 feet in height. A review of the detailed Airport Hazard Zoning Map indicates that building heights on the subject property will be limited to a range of approximately 50-80 feet, with taller buildings permitted the farther south a building is located on the subject property.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE

NORTH: "SF-6" & "LI" Agriculture, manufacturing/warehousing
SOUTH: "RR" & "SF-20" Agriculture
EAST: "RR" & "SF-20" Agriculture, single-family residences

WEST: "SF-6" Agriculture

PUBLIC SERVICES: Municipal water and sewer services recently have been extended to the Cessna property located immediately northeast of the subject property. Planning staff will recommend that guarantees for the extension of water and sewer service to the subject property be provided at the time of platting.

Access to the site will be from Ridge, a two-lane arterial. Existing traffic volume on Ridge is approximately 1,800 vehicles per day. The 2030 Transportation Plan projects traffic volume on Ridge to increase to approximately 4,000 vehicles per day. Planning staff will recommend that guarantees for appropriate left-turn and accel/decel lanes on Ridge be provided at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses also should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The Goals, Objectives, and Strategies section of the 1999 Update to the Comprehensive Plan contains the following strategy (V.D2.): "prevent encroachment of incompatible development around airports through the implementation of land use regulations which minimize high concentrations of people in takeoff/landing zones; provide appropriate noise-reducing construction; and prevent excessive building heights, glare, smoke, and other hazards to air traffic."

RECOMMENDATION: While planning staff finds that the site is suitable for industrial uses, planning staff does not support the request for "LI" Limited Industrial zoning. Instead, planning staff recommends that the site be approved for "IP" Industrial Park zoning in order to increase the site's compatibility with Mid-Continent Airport and nearby residential uses. The site's location in the airport's takeoff/landing zone indicates that commercial and institutional uses involving high concentrations of people are not suitable, and the "LI" Limited Industrial district permits numerous uses involving high concentrations of people. The "IP" Industrial Park zoning classification does not permit residences, hotels, motels, RV parks, taverns, drinking establishments, retail stores, hospitals, nursing homes, schools, churches, correctional facilities, or recreational facilities. These uses comprise the overwhelming majority of uses prohibited by the Airport Overlay District near McConnell Air Force Base, which provides a good indication of the types of uses that can have a detrimental impact on airport operations. Additionally, the purpose of the "IP" Industrial Park zoning district is to accommodate limited commercial services, research and development, administrative facilities, and industrial and manufacturing uses that can meet high development and performance standards. The high development and performance standards of the "IP" Industrial Park district will help mitigate negative impacts of industrial uses on existing residences in the Prospect Park neighborhood located to the southeast. Based upon information available prior to the public hearings, planning staff recommends that the request for "LI" Limited Industrial be zoning DENIED and instead that "IP" Industrial Park zoning be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is on the urban fringe of Wichita with much of the land in the area still used for agriculture. In terms of developed properties, Mid-Continent Airport and the Cessna and Case manufacturing plants dominate the character of the area. The property north and west of the site is zoned "SF-6" Single Family Residential and is undeveloped property owned by Mid-Continent Airport. A small tract north of the site located at the southwest corner of K-42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years to allow agriculture implement sales; however, the business has yet to be developed. The property northeast of the site at the southeast corner of K-42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years and is under development as a central parts distribution facility for Cessna. The properties east and south of the site are zoned "RR" Rural Residential and "SF-20" Single-Family Residential and are used for agriculture. The nearest residences to the site are located in the Prospect Park neighborhood to the southeast across Ridge on property zoned "SF-20" Single-Family Residential and "SF-6" Single-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "RR" Rural Residential and "SF-20" Single-Family Residential, which limits the use of the site to primarily agricultural and large-lot residential uses. Due to the proximity of the site to the airport, residential uses are not suitable for the site. Therefore, a change in zoning classification to "IP" Industrial Park will permit more suitable industrial type uses. The suitability of industrial use of the site is supported by the Land Use Guide.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The property north and northeast of the site is zoned "LI" Limited Industrial and is developed (or proposed for development) with industrial uses. Additional industrial uses in the area should not detrimentally affect neighboring industrial uses given the availability of sufficient infrastructure. Mid-Continent Airport is located north of the site, and the recommended "IP" Industrial Park zoning will prohibit commercial and institutional uses involving high concentrations of people and should mitigate detrimental impacts on airport operations. Property southeast of the site is developed with residential uses, and the high development and performance standards of the recommended "IP" Industrial Park district along with the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should mitigate detrimental impacts of industrial development on nearby residential uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The site meets the Comprehensive Plan's locational guidelines for industrial uses by virtue of having good access to major roadways, public utilities, and an airport and by virtue of being an extension of existing industrial uses. The recommended "IP" Industrial Park zoning meets the Comprehensive Plan's strategy to prevent encroachment of incompatible development around airports through land use regulations which minimize high concentrations of people in takeoff/landing zones.
5. Impact of the proposed development on community facilities: Development of the site will increase traffic in the area; however, the roadways in the area can handle the increase in traffic with minor improvements such as turn lanes. Water and sewer service can be extended to the site from adjacent properties. There should be minimal impact on municipal services in the area.

KNEBEL "This item is a zone change request from "RR" Rural Residential and "SF-20" Single-Family residential. The applicant is requesting Limited Industrial zoning. During the review process for this case, the applicant indicated that they are seeking the zone change to develop the site with an industrial park with ½ to 1-acre lots. Since the time that we prepared the staff report there has been a number of changes—this is one of them. The applicant does indicate that they may have another intended use for the site. I will let them address that during their presentation.

The surrounding area is on the urban fringe of Wichita. It is primarily an agricultural area, which is reflected in the zoning. In terms of developed properties in the area, the airport, the Cessna and Case manufacturing plants do pretty much dominate the character of the area. It doesn't show real well in this picture, but this is the residential area to the southeast, which is the other existing developed area. Cessna is currently developing a site right here in this location and has recently been approved for zoning to develop further sites in this location. (Indicating) This is the airport property up to the north. The site is currently used for agriculture. To the south is more agricultural property. To the southeast it is some agriculture and further to the southeast, past the hedgerow is the Prospect Park neighborhood, which is a residential neighborhood with large lots. There is agriculture to the north and to the northeast, as I mentioned, Cessna is currently developing an industrial business and then to the north across the highway is the runway to Mid Continent Airport.

Speaking of the airport, this site is located within what is called 'Area A' on the Wichita/Sedgwick County Airport Hazard Zoning map. In that area 'A', any building that is to exceed 25 feet in height is required to get a zoning permit exemption in order to exceed that height—basically just an additional review to ensure that any buildings that would be constructed are not a hazard to air safety.

As far as municipal services to the site, the Cessna property, with this being developed, extended services nearer to this site and services can be extended to the site. Staff would recommend that they be extended as a condition of platting. Also, as a condition of platting, we are recommending that any necessary turn lanes, acceleration or deceleration lanes that the engineers determine are necessary would be provided at the time of platting.

This particular area in the Land Use Guide is identified as appropriate for industrial development. The Comprehensive Plan also provides a strategy that we think is very important to consider in this request. That strategy states that we should prevent encroachment of incompatible development around airports through the implementation of land use regulations which minimize high concentrations of people in take-off and landing zones. The staff does believe that this site is suitable for industrial uses; however, we are not supporting the Limited Industrial requested by the applicant, but instead are recommending Industrial Park zoning. We are basing that on a couple of reasons. First, the site's location within the take-off and landing zone of Mid-Continent Airport. It makes it such that we don't believe the uses in Limited Industrial that involve high concentrations of people should be permitted in this location. Industrial Park zoning limits a number of those. When I get to my recommendations, I will list a few things that Industrial Park also permits that we think should be restricted from at least a part of this property.

Additionally, you do have the residential area, which is located catty-cornered across Ridge Road from this site and the Industrial Park zoning district does have much higher development standards than the Limited Industrial zoning district, and we believe that the Industrial Park zoning would be more compatible with the existing residential development in the area than the Limited Industrial zoning.

Since the time that we have prepared the staff report, we have received a letter from the Federal Aviation Administration (FAA), and it should be attached to a blue memo for this agenda item. It should be the second page of that handout. The Federal Aviation Administration is indicating that they are opposed to this zoning request, based on its impact on a proposed 1,500 foot runway extension. There is a map that is attached to this blue memo that shows that runway extension in a dash line and then shows the two different zones—a runway protection zone, which extends 2,700 feet from the end of the runway and a runway approach protection, which is another 2,300 feet from the end of the runway. The FAA is indicating that they would like to see essentially no development occur in the runway protection zone, which would be a small triangular piece of the property, located in the center at the northern portion of the subject property and then would like to see all uses that involve concentrations of people restricted from the runway approach protection area, which is basically the western 2/3 or 3/4 of the subject property.

Based on this additional information regarding the extension of the runway, which was not considered when the original staff report was prepared recommending just straight Industrial Park zoning, the Planning staff has modified our

recommendation for Industrial Park zoning to include a Protective Overlay, which would basically divide the subject property into 3 segments. You would have that portion which is in the runway protection zone, which is 2,700 feet from the end of the runway. That site would basically be limited to very limited uses—agriculture, parking lots, storage areas, or anything associated with an airport now. Airport uses would require Conditional Use approval in Industrial Park, so that is why I have that 'subject to' in the listing regarding airplane runways and taxiways. The portion that is in the runway approach protection zone, which is the largest portion of the property, which is 2,300 feet beyond the initial runway protection zone, staff is recommending that Industrial Park zoning be granted except for the following uses: Auditorium and stadium, college or university, community assembly, day care, library, convenience store, restaurant and vocational school. Those items weren't just picked out of the air, those are the items that are, while they are not listed that way, they are defined terms out of the Zoning Code. Those are taken as an extrapolation from the Airport Overlay district that exists around McConnell Air Force Base, which has the same intention of limiting congregations of people underneath the runway zones.

The remainder of the property, which is basically the eastern 1/3 or 1/4, staff is recommending for Industrial Park zoning with all uses permitted by right in that district. The findings for the basis of this recommendation are on Pages 4 and 5 of the staff report, and I can answer any questions."

PLATT "What ultimately is going to happen to K-42?"

KNEBEL "Well, I guess I can't answer any questions. Let's say I will try to answer any questions. I don't know the answer to that one."

GAROFALO "On the second condition of the Protective Overlay, are buildings permitted in that area?"

KNEBEL "Under Item 2, you mean?"

GAROFALO "Yes."

KNEBEL "Yes."

GAROFALO "Wouldn't they be limited in height?"

KNEBEL "Yes, they would be limited in height by the Airport Hazard Zoning Code."

GAROFALO "But they can have some buildings. Do you know what the height limit is?"

KNEBEL "It depends. It varies based on the actual ground elevation of the building site. But anything that was over 25 feet would have to go through a review to determine whether it was an acceptable height or not."

MICHAELIS "Scott, I have a question. This is kind of like a chicken and egg thing, but under the current scenario, none of this would come into play with the runway being where it currently is, right?"

KNEBEL "That is accurate. The extension of the runway is the change in circumstances that has led us to recommend this Protective Overlay."

MICHAELIS "That is a proposal. We don't even know that that is going to happen."

KNEBEL "We have a representative from the airport here and I think they would best be able to address that. To my understanding, it is a proposal, but it is pretty certain."

MICHAELIS "Okay, but as it is now, with the runway where it is, this letter wouldn't be applicable?"

KNEBEL "We are recommending yes, that you plan for the future that the runway will be extended."

JOHNSON "Marvin, I know that for a long time there is supposed to have been a long-term study done on the airport. Have we ever received any information whatsoever on that?"

KROUT "There was a study completed. The Planning Commission was briefed on it in a workshop session, maybe a couple of years ago. It did look at land uses around the airport and made a general recommendation to adopt land use restrictions similar to the ones that had been adopted for McConnell Air Force Base.

After reviewing it and having a special workshop with the Advisory Board and the Airport Authority at the time, we decided that we felt that we didn't need to do an Overlay, but we could--like we are suggesting doing today, deal with these on a case-by-case basis and apply similar land use restrictions. Since that time, the Airport Authority—and maybe they can tell you about it—has signed a new contract and is doing a new study and I think it will also include looking again at the areas around the airport."

WARREN "I know you don't ever like to have me talk about what I consider to be our limits of police powers, but if we are going to take an easement across a man's land and we are going to deny him use of his land, the chances are that that is going to be a taking and we are going to owe him something for it. We are taking an easement across this guy's land and

saying 'because the public needs your land, we are going to deny you the use of that land'. I don't like that. I think it is stinks to high heaven that because the public needs this that we are going to ask this guy to donate it, give it to us and deny him the use of this land. I agree with Commissioner Johnson. If there isn't absolutely construction occasions, then I don't think that we ought to consider that. In fact, I think it is wrong that we take an easement without just compensation anyway. And that is an easement across his land and we are taking it."

KROUT "For the record, the Planning staff disagrees. Commissioner Warren may not like it, and there may be other members who don't like it, but we applied similar land use restrictions at McConnell Air Force Base. We had a lawyer who was an expert in airplane crash litigation, who owned affected land just off the runway approach at McConnell who challenged the City and County on their regulations, and took us as far as the Federal Appeals Court in New Orleans and lost every time, including at the Appeals Court level.

This is not an easement, this is a restriction on property. It certainly is not coming anywhere near destroying the value or taking away economic pieces of this property. All this property is indicated to have some viable use—an industrial use. This is probably the highest and best use of this property. So I think you are entirely off base, and I would be glad to share the brief with you on McConnell Air Force Base."

MICHAELIS "May we hear from the applicant?"

PHIL MEYER "I am with Baughman Company, agent for the applicant. With me here today is Roger Haag, who is the applicant on this particular case. Why I am here today is to try to reach a spirit of compromise. We come to this podium in the spirit of compromise. We filed this zone change case for Limited Industrial zoning. We felt like the Limited Industrial zoning was very appropriate when we filed it. If you will look to the north of us, the entire airport property is zoned Limited Industrial. We have property over here to the east of us that is Limited Industrial.

About 4 or 5 years ago, I worked with Caldwell Equipment and rezoned this corner (indicating) for Limited Industrial. We want to continue that on down into this area (indicating). We know that this area is not suitable for residential or other development. We agree with staff that the best use for this property is industrial use. It really is just going to come down to what zoning we put on it. We requested Limited Industrial. Staff, in the original staff report, suggested that maybe we go to an Industrial Park. There are 42 uses that are not allowed in Industrial Park but are allowed in Limited Industrial. Forty-two uses. What I have passed out to you today is a Protective Overlay. This Protective Overlay eliminates 34 of those 42 uses. We are willing to do that. We realize that we are out there by the airport; we realize that these 34 uses would probably be inappropriate at that location. But there are eight uses that we would like to have and cannot have if we have the Industrial Park zoning.

Those 8 uses are: a parking area for commercial; vehicle and equipment sales outdoor; vehicle repair, general; vehicle repair, limited; vehicle storage yards; agricultural processing; agricultural research; and agricultural sales and service. Those are 8 uses that we think are viable to this piece of property that if you grant us the Industrial Park zoning, we can't use. What is key for you to know is that the applicant, Roger Haag, owns Haag and Haag Construction Equipment. His intent, when he bought this ground, was to be able to move his own business over to this location. He feels that it is a great location. He sells equipment for construction.

Caldwell Equipment is right up here (indicating). He is selling equipment to agricultural users. They are not direct competitors because Caldwell pretty much sells to farmers and agricultural uses; Haag sells to commercial construction equipment. That is the use he planned on moving to here. So if you grant us a zone change today, per staff comments, the applicant can't even use the property for the business he is in. We feel that this Protective Overlay gets us to pretty much the same point staff is trying to get us to with the Industrial Park. It eliminates 34 uses that could bring a lot of people into the area.

The Land Use Guide calls this area out as appropriate for Industrial zoning. We would like to use that Land Use Guide. Within the last two years, the airport went in there and rezoned all of their pieces of property to Limited Industrial zoning. We are not asking for anything different than what the airport did. We are actually willing to limit uses farther than what the airport itself did when it did that. We are more than willing to agree on the staff's amended report where they talk about allowing only 3 uses in the area within the 2,700 feet. We are okay with that.

In the area within the 2,300 feet, we can add those 9 or 10 uses to this Protective Overlay that I have supplied you with a copy of. What is key is that we do get the Limited Industrial zoning so this owner can move his own business and other related businesses over here. Out of the 8 uses I proposed to you, none of them generate large quantities of people or create a problem with people congregating out there underneath the airport. With that, I am going to open it up to questions that you may have of me."

MCKAY "Phil, rather than to put all of the uses on an Overlay that you won't do, wouldn't it be simpler to say 'this is what we will do if you grant us that?'"

MEYER "Certainly. But it sure looks like we are more giving when I gave up 34 uses. That is exactly what we did."

MCKAY "But I am saying, in the Overlay, just say 'this is all we will do'."

MEYER "These are the uses we are allowed? That is a little more difficult to do. Basically, what I am doing is pulling out the difference between Industrial Park and Limited Industrial."

MCKAY "I know what you are doing, but you should say 'if we get the zoning we want, this is all we will use the property for'."

MEYER "Well, I need to go through all of the uses that are allowed. There are a whole bunch of uses that are allowed in both districts. I am only pulling out the difference between the two. I am not opposed to that."

MICHAELIS "I was just informed by staff that they are in agreement with your proposal."

WARREN "Staff is in agreement with this?"

MICHAELIS "Yes."

MEYER "That will save us some time there, won't it?"

PLATT "Does vehicle sales include a used car lot?"

Laughter here.

MEYER "If you could get somebody to drive down to that location to buy a used car, it could. I think that one will solve itself, just due to location. But it is a good location for equipment sales, out there by K-42 on the highway."

MICHAELIS "Did you want Mr. Haag to use up the rest of your time?"

MEYER "Mr. Haag will be glad to come up and answer any questions you may have."

MICHAELIS "Okay. Are there any questions of Mr. Haag? All right, then are there any further questions for Mr. Meyer? Thank you, Phil. Is there anyone else in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to? Seeing none, I will bring it back to the Commission."

PLATT "Could we hear from the airport representative?"

JOHN OSWALD "I am the Director of Airport Engineering and Planning. I don't have a presentation to make. I talked to the FAA staff today after they had received the May 9 staff comments. The FAA has not had a chance to respond to the most recent comments that you have in front of you. I have asked them for a written response similar to the May 7 letter, but that has not arrived. I am in a position to have to mimic what the FAA tells us to do on that. I am not a decision maker at this particular time, but I would be glad to answer any questions that I can."

PLATT "So in other words, you have sent this to the FAA and asked them for a ruling?"

OSWALD "That was just handed to me 10 minutes ago by Phil."

GAROFALO "As I read this FAA letter dated May 7, without any doubt in my mind, they are opposed to anything there."

OSWALD "As I read this, they are opposed to the applicant's request and they were opposed to the staff recommendation."

GAROFALO "Right. They are opposed to anything."

KROUT "Let me explain that our recommendation was before we understood about the 1,500 foot extension to the runway, which then puts this in a different kind of zone and subject to more restrictions in terms of FAA's recommendations. Once we understood that, that was something we applied with similar provisions that we had to the McConnell one and then realized that there should be some more restrictions on the concentrations of people. I guess they haven't said whether they are opposed to any development, but we are assuming that they would not be opposed to these restrictions, but we don't know that for sure."

GAROFALO "Shouldn't we be concerned about that?"

MCKAY "Bring it back."

MICHAELIS "I would certainly entertain a motion."

KROUT "How much time do you think it will take to hear back from them?"

OSWALD "I would predict that a letter from the FAA will be here next week."

MICHAELIS "We need to continue on first and then bring it back and then you can make a motion."

LOPEZ "I have a question on the discussion about the proposed 1,500 foot extension of the runway. Is that actually going to occur?"

OSWALD "It is actually 1,700; and yes, it is. It is in the Master Plan. It is my recollection that it is in the intermediate phase time-frame. We do not have it in our 3 year plan, but I would anticipate that within the 10 year time-frame, it will occur."

To respond to a comment that was made earlier, February 19, 1998 is when the Master Plan was adopted. What you are seeing on this sketch was in that Master Plan on the Runway Protection zone, and the parcel in question was identified as future land acquisition. It precedes me, but I am assuming that this Commission, or your predecessors had access to—saw a report on the Master Plan. The Airport Layout Plan would have shown that. I may be speaking out of turn."

KROUT "I guess we either didn't have a copy or didn't consult that plan. I don't remember."

OSWALD "I can't say, but it has been there for several years, I will put it that way."

WARREN "What you are suggesting is that this drawing that just came about apparently recently then, has been around since 1998? The one we looked at today?"

OSWALD "Yes. The trapezoid—if I can use that term—the trapezoid on there that shows the runway protection zone, the trapezoid was on the early 1998 plan. The rectangle south of the trapezoid, the 1700 feet that is labeled—if you turn the page sideways—is labeled 'runway approach protection', and has been a new emphasis from the FAA for airports to acquire land within 5,000 feet of the end of a runway. So the rectangle you see in there was not in the 1998 document. The trapezoid you see in there was in the 1998 document. And this 53-acre parcel of land was entirely identified as land acquisition for the future."

WARREN "And when you say 'acquire', are we talking about condemnation, are we talking about buying the land, or what?"

OSWALD "We have asked the Property Management Department in City Hall to provide us an appraisal on that parcel."

WARREN "With the intent of possibly buying it?"

OSWALD "Yes. I am not making a statement that that is happening, but yes, I am answering the question that you asked."

WARREN "So they would take that—you would be buying land over on the south side of K-42 if that were to take place?"

OSWALD "This parcel in front of you and what was identified by Phil as the Caldwell parcel are both identified in the 1998 document as future land acquisition."

MICHAELIS "Just as a point of clarification, there are two trapezoids on here. Were they both included in the 1998 document?"

OSWALD "Yes. What you see, in fact you can look at the date in the lower right-hand corner, our staff developed that and we didn't label the second trapezoid, the further south trapezoid, but one of them is the existing runway protection zone and the other one is the future. Once it was identified in the airport layout plan, both we and the FAA operate under the assumption that that will be built and they are directing us as such."

MICHAELIS "Okay. Thank you."

OSWALD "Yes. Are there any other questions for me at the moment?"

MICHAELIS "No. Let's get into the discussion and get a motion made, then if you have further questions of him, then we can ask questions. We haven't even gone through the public hearing part of this yet."

WARREN "Yeah, we did, it's done."

MICHAELIS "That was the applicant and then the representative from the airport. We haven't asked if there was anybody else to speak."

MCKAY "Yes, you did. The only reason Mr. Oswald came up to speak is because George wanted to hear from the airport."

MICHAELIS "I apologize. The applicant has two minutes for rebuttal."

MEYER "I don't have any rebuttal, but I do have a comment. I don't know that the Planning Commission is heading this direction, but I don't see a value in a deferral to wait for the FAA. We have a letter from the FAA that opposes what we applied for. We have a letter from the FAA that opposes what staff has recommended. I don't see the FAA changing their mind that staff and the applicant have come to a compromise that they are all of a sudden going to support it."

I am willing to allow the project to hold up from the Planning Commission to the City Council while we wait to hear from the FAA, which is only a week or so away anyway and shouldn't hold the process up, but I don't think we are going to get a letter from the FAA that is going to shed any great light on the issue, based on the letter we have today. They are opposing both right now and that is not going to change."

KROUT "But that is based on previous recommendations, so I don't think we know."

MEYER "That is true, but our recommendation hasn't changed enough that they are going to change their opinion. That's what I think. We are going to leave it up to the Planning Commission. We would just as soon have a vote today, but it is certainly up to you guys."

WARREN "Have you been aware, at any time that there is a possibility that your client's land may be subject to condemnation and purchase by the Airport Authority?"

MEYER "Yes, sir."

WARREN "You were aware of that before?"

MEYER "We were aware of it mid-stream. I started talking to this client back in November. I wasn't aware of the 1998 Master Plan, but I was aware that he had been contacted in the last month."

WARREN "By the Airport Authority with some kind of a thought of eminent domain?"

MEYER "With a discussion for condemnation. They have not met yet, so that is possible. It may happen, it may not happen. That is what is key for me here. Industrial Park, Limited Industrial—we don't care if it is condemned. They are both industrial zonings. If this thing isn't condemned, then my applicant can't move his business over here, which is what he needs to do. So I have to lay zoning in place so that if the condemnation doesn't happen, he can use the property for what he intended to use it for when we first started our discussions."

WARREN "I don't have another question, but I agree with what he is saying. I think we are giving a temporary condemnation of this property by not going ahead and giving the zoning. The zoning he is asking for is a reasonable, legitimate request for zoning. Now, if condemnation or eminent domain comes along, fine. They have the right to do that. But I think the guy has asked for something that is reasonable and logical and something we should approve."

MOTION: Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is on the urban fringe of Wichita with much of the land in the area still used for agriculture. In terms of developed properties, Mid-Continent Airport and the Cessna and Case manufacturing plants dominate the character of the area. The property north and west of the site is zoned "SF-6" Single Family Residential and is undeveloped property owned by Mid-Continent Airport. A small tract north of the site located at the southwest corner of K42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years to allow agriculture implement sales; however, the business has yet to be developed. The property northeast of the site at the southeast corner of K-42 and Ridge was approved for "LI" Limited Industrial zoning within the past several years and is under development as a central parts distribution facility for Cessna. The properties east and south of the site are zoned "RR" Rural Residential and "SF-20" Single-Family Residential and are used for agriculture. The nearest residences to the site are located in the Prospect Park neighborhood to the southeast across Ridge on property zoned "SF-20" Single-Family Residential and "SF-6" Single-Family Residential. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "RR" Rural Residential and "SF-20" Single-Family Residential, which limits the use of the site to primarily agricultural and large-lot residential uses. Due to the proximity of the site to the airport, residential uses are not suitable for the site. The suitability of industrial use of the site is supported by the Land Use Guide. Extent to which removal of the restrictions will detrimentally affect nearby property: The property north and northeast of the site is zoned "LI" Limited Industrial and is developed (or proposed for development) with industrial uses. Additional industrial uses in the area should not detrimentally affect neighboring industrial uses given the availability of sufficient infrastructure. Mid-Continent Airport is located north of the site, and the Protective Overlay will prohibit commercial and institutional uses involving high concentrations of people and should mitigate detrimental impacts on airport operations. Property southeast of the site is developed with residential uses, and the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should mitigate detrimental impacts of industrial development on nearby residential uses. Conformance of the requested change

to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The site meets the Comprehensive Plan's locational guidelines for industrial uses by virtue of having good access to major roadways, public utilities, and an airport and by virtue of being an extension of existing industrial uses. The Protective Overlay meets the Comprehensive Plan's strategy to prevent encroachment of incompatible development around airports through land use regulations which minimize high concentrations of people in takeoff/landing zones. Impact of the proposed development on community facilities: Development of the site will increase traffic in the area; however, the roadways in the area can handle the increase in traffic with minor improvements such as turn lanes. Water and sewer service can be extended to the site from adjacent properties. There should be minimal impact on municipal services in the area.) I move that we recommend to the governing that the request be approved, subject to the following:

APPROVED, subject to platting within one year and subject to the following provisions of Protective Overlay District #95:

- 1) That portion of the subject property located within the Runway Protection Zone (an area that is 1,750 feet wide centered upon the runway and extends 2,700 feet from the end of the runway designated as Area #1 on the Protective Overlay Map) shall be restricted to the following uses: agriculture (subject to Sec. III-D.6.b); surface parking lots; outside storage areas; and airplane runways and taxiways (subject to Sec. III-B.18.c.).
- 2) That portion of the subject property located within the Runway Approach Protection (an area that is 1,750 feet wide centered upon the runway and extends 2,300 feet from the end of the Runway Protection Zone designated as Area #2 on the Protective Overlay Map) shall be allowed all uses permitted by-right in the "LI" Limited Industrial zoning district except: auditorium or stadium; cemetery; church or place of worship; college or university; community assembly; convalescent care, limited and general; correctional facility; correctional placement residence, limited and general; cultural group; day care, limited and general; golf course; hospital; library; convenience store; funeral home; hotel or motel; kennel, boarding/breeding/training; marine facility, recreational; medical service; microbrewery; night club; pawnshop; recreation and entertainment, indoor and outdoor; retail, general; restaurant; secondhand store; service station; tavern and drinking establishment; vocational school; and gas and fuel storage and sales.
- 3) That portion of the subject property located outside the Runway Protection Zone and the Runway Approach Protection designated as Area #3 on the Protective Overlay Map shall be allowed all uses permitted by right in the "LI" Limited Industrial zoning district except: cemetery; church or place of worship; community assembly; convalescent care, limited and general; correctional facility; correctional placement residence, limited and general; cultural group; golf course; hospital; funeral home; hotel or motel; kennel, boarding/breeding/training; marine facility, recreational; medical service; microbrewery; night club; pawnshop; recreation and entertainment, indoor and outdoor; retail, general; secondhand store; service station; tavern and drinking establishment; and gas and fuel storage and sales.

MCKAY moved, **WARREN** seconded the motion.

MICHAELIS "Is there any discussion?"

BISHOP "I feel like this is premature. It feels like something is moving along and we are (**unable to hear**) ourselves at the wrong winning process. I would have been able to support a deferral, but this motion doesn't quite make sense to me."

GAROFALO "If this were to be approved today, it still has to go to the City Council for approval, right?"

KROUT "This is a County case, so it will go to the County Commission and hopefully we will have some information available before then, but it is hard for me to understand how Planning Commissioners wouldn't want to hear from the FAA before making a recommendation."

WARREN "I think we have heard from them."

KROUT "I am not sure what the delay of two weeks would..."

MICHAELIS "I think we have heard from them in the form that they are not in support of it, and I have to tend to agree with Mr. Meyers that they probably aren't going to change that opinion. He has already agreed to hold it off and just doesn't want to wait another two weeks in the process and slow the whole thing up. I think that is fair."

WARREN "I do, too."

MICHAELIS "If some time in between now and the County Commission the FAA comes along and says something, they can get with them."

MCKAY "The County Commission has the right to defer it also. If they want to hear from the FAA."

MICHAELIS "Yeah."

BISHOP "Is the zoning classification going to have an impact on what the individual can get for the land?"

WARREN "I don't understand the question."

MCKAY "Is it more valuable zoned the way it is now or the way we are talking about it?"

BISHOP "And that is the reason I think we should wait."

WARREN "But I don't think that is for us to say. The man has the right to use his land, and who are we to deny him of that right so that we can hold it for a cheaper price for the government. I don't think that is fair either."

MICHAELIS "No. We have a motion and a second. Is there any further pertinent discussion?"

BARFIELD "When will this go to the County?"

KROUT "Normally it would go on June 6."

PLATT "I think the primary responsibility of the Planning Commission is to protect the airport, and that may mean that we have to make decisions that are very difficult to make in terms of landowners near the airport. I am not prepared to make a decision until I have heard all of the information that I think is vital key factor. I think that vital key factor is a response of the FAA to what is being proposed today, so I can't support a zoning change until that time."

MOTION: That the question be called.

MCKAY moved, **WARREN** seconded the motion.

VOTE ON THE MOTION: The motion carried with 7 votes in favor (Hentzen, Marnell, Johnson, Warren, Warner, Michaelis, and McKay) and 6 in opposition (Platt, Coulter, Lopez, Garofalo, Barfield and Bishop).

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15. **Case No. ZON2001-00025** – Richard and Dana Loffland (owner) request zone change from "B" Multi-family residential to "GC" General Commercial, on property described as:

Lot 42, on Hydraulic, Mathewson's 4th Addition to Wichita, Sedgwick County, Kansas. Generally located west of Hydraulic, south of Third Street.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is seeking "GC" General Commercial zoning for a platted vacant lot that is currently zoned "B" Multi-family Residential. The site is located west of Hydraulic and south of 3rd Street and is less than one acre in size. The applicant owns Frontier Electronics that is located just north of the application area, and indicates the reason for the request is to expand his Frontier Electronics business. Frontier Electronics repairs electronic devices such as televisions and microwave ovens. An unpaved alley exists to the rear of the application area. Since the request is to expand an existing business that currently has access to Hydraulic, the application area should grant complete access control to Hydraulic.

Nearby property is zoned "GC" General Commercial or "B" Multi-family Residential. Adjoining land is developed with commercial or residential uses.

The Landscape Ordinance will be triggered with new construction on the site. A landscape plan will need to be submitted for approval prior to the issuance of building permits. Zoning code screening will be required along the south and west property lines.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "GC" General Office; Commercial
SOUTH: "B" Multi-family Residential; single-family residence
EAST: "B" Multi-family Residential and "GC" General Commercial; single-family residences and commercial
WEST: "B" Multi-family Residential; single-family residences

PUBLIC SERVICES: Municipal sewer and water services are available. Hydraulic is designated as a 4-lane arterial on the 2030 Transportation Plan map needing 50 feet of half street right-of-way instead of the 30 feet it currently has at this location. Hydraulic currently carries an average of 4600 to 4800 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the dedication of complete access control and 20 feet of right-of-way.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Nearby property is zoned "GC" General Commercial or "B" Multi-family Residential. Adjoining land is developed with commercial or residential uses. The character of the area is a neighborhood that is in transition from what was once a well maintained neighborhood to one that is converting to nonresidential uses. New construction in the area has been for nonresidential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "B" Multi-family Residential. The "B" district primarily restricts the site to residential uses. Given the existence of a commercial building immediately north of the application area and a newer commercial building located northeast of the site, this site is becoming less desirable for infill residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" zoning will permit uses not currently permitted at this location, however screening and landscaping requirements will minimize detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would allow the expansion of an existing business on to a lot that is currently vacant. Failure to approve the request would make expansion by this business at this location virtually impossible.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Planning Commission has a policy of generally supporting the expansion of existing businesses. The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development.
6. Impact of the proposed development on community facilities: "GC" uses are capable of generating some of the highest traffic rates. Therefore the dedication of additional street right-of-way and complete access control would address potential increased demand on community facilities.

MILLER "This is a request for 'GC' General Commercial on a tract that is currently zoned 'B' multi-family. It is a single lot located here off of Hydraulic, south of 3rd Street. The abbreviated version is the applicant owns the business, located on this tract here (indicating), and they are wanting to expand. They have acquired the tract to the south, and would like to have both parcels zoned the same.

The applicant owns Frontier Electronics—they repair microwaves and televisions, and other electronic equipment. Staff is supportive of the request. The Land Use Guide indicates that commercial use is an appropriate category. The recommendation for approval is subject to the dedication of complete access control to the new lot, since they have access on this lot (indicating) and an additional 20 foot of right-of-way, similar to what they gave when they platted this particular tract, so that we can get things matched up as we move along here. With that, I will answer any questions."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Miller. The applicant, please."

RICHARD LOFFLAND "I own Frontier Electronics. Over the years, the business has changed a lot. As most of you know, consumer electronics has gotten a lot cheaper and the profitability of repairing TVs, radios and stuff like that has fallen quite a bit. So we have expanded into a lot of different types of electronic devices—particularly in the commercial area—displays, control boards that would operate machinery, that sort of thing. With the wide variety of stuff that we are

doing now, our current location is starting to get cramped. We have owned the property to the south for quite a bit of time, 7 years I believe, and we feel that now is the time to make the move. I would answer any questions."

MICHAELIS "Are there any questions of the applicant? Thank you, sir. Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to it? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Nearby property is zoned "GC" General Commercial or "B" Multi-family Residential. Adjoining land is developed with commercial or residential uses. The character of the area is a neighborhood that is in transition from what was once a well maintained neighborhood to one that is converting to nonresidential uses. New construction in the area has been for nonresidential uses. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "B" Multi-family Residential. The "B" district primarily restricts the site to residential uses. Given the existence of a commercial building immediately north of the application area and a newer commercial building located northeast of the site, this site is becoming less desirable for infill residential development. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" zoning will permit uses not currently permitted at this location, however screening and landscaping requirements will minimize detrimental impacts. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would allow the expansion of an existing business on to a lot that is currently vacant. Failure to approve the request would make expansion by this business at this location virtually impossible. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Planning Commission has a policy of generally supporting the expansion of existing businesses. The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development. Impact of the proposed development on community facilities: "GC" uses are capable of generating some of the highest traffic rates. Therefore the dedication of additional street right-of-way and complete access control would address potential increased demand on community facilities.) I move that we recommend to the governing body that the request be approved, subject to the dedication of complete access control and 20 feet of right-of-way.

JOHNSON moved, **COULTER** seconded the motion, and it carried unanimously (13-0).

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16. **Case No. ZON2001-00022** – Ronald D Fisher, OD; MKEC Engineering Consultants request zone change from "TF-3" Two-Family Residential to "GO" General Office on property described as:

Lots 133-135 Smithson's Subdivision Smithson's Addition.

Lots 133 and 135, on Douglas Avenue, Smithson's Subdivision of Smithson's Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the southeast corner of Douglas – Edwards intersection.

BILL LONGNECKER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting consideration for a zoning change from TF-3 Two Family to GO General Office, on Lots 133 & 135, Smithson's Addition, for an off street parking area. The applicant has submitted a site plan showing the proposed use of the subject property and his existing business. The applicant proposes to build an additional parking lot for his optometry business (Lots 125, 127, 129 and 131, Smithson's Addition, abutting the proposed parking lot on the west) that will connect to his existing off street parking. The site plan shows the proposed parking area to add another 9 spaces to the current parking, plus additional unmarked parking for employees. The applicant's current

business is zoned GO General Office, has 16 marked, paved (asphalt) parking spaces for customers in the front and barely observable (5-6) marked paved (asphalt) parking spaces for employees in the back with access from the unpaved alley. The additional parking will give the business more parking than what is required for 'medical services', with the square footage of the building. The applicant must provide and mark parking for individuals with disabilities. Access to the proposed parking will be through the existing parking lot. There is existing ingress/egress, one off of Douglas and one off of Edwards. The site plan shows street side landscaping and a privacy fence running between the proposed parking lot and the adjacent residence to the east and the additional employee parking abutting it to the south. The applicant's business has no landscaping, but the site plan shows the current rock being replaced with sod/grass. A parking area, commercial, is a permitted use in "GO" General Office zoning. The requested zoning to GO General Office will match the zoning of the applicant's current business.

Currently this site is developed with a single-family residence on it. The properties to the east, south and north are zoned TF-3 Two Family and are developed primarily as single family residential. The property to the west (at the southwest corner of the Edwards – Douglas intersection and across the street from the applicant's business) is zoned GO General Office and is developed as an insurance office, beyond it the development is residential. Three houses east of the site, is a Dillon's, at the Douglas – Richmond/Douglas – Meridian intersections. The Douglas – Meridian intersection has retail and office (Dillon's, a liquor store, physical therapy, and other small retail) development at all 4 corners. There are no other non-residential uses west of the Edwards – Douglas intersection until the Douglas – Sheridan intersection. The proposed development of the additional parking lot will trigger required landscaping on the proposed parking lot (per approval by the Planning Director) and screening along the east and south sides of the property. Dumpster needs to be screened.

CASE HISTORY: The property was platted and recorded June 6, 1886 as the Smithson's Addition. The property was platted and recorded December 9, 1886 as the Smithson's Subdivision of the Smithson's Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3 Two Family	Residential
EAST:	TF-3 Two Family	Residential
SOUTH:	TF-3 Two Family	Residential
WEST:	GO General Office	Office

PUBLIC SERVICES: Douglas is classified as an urban collector and is a paved two-lane road, at this point with room for street side parking. Average Daily Trips (ADT) at the Douglas – Edwards intersection is 3585 ADTs north – south and 8085 ADT west - east. There is gas, water, sewer and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property/area as medium density residential. Medium density residential is intended for transitional land use between low and high-density residential use, it may also be used as a buffer for low-density residential use from commercial uses. Douglas at this location provides the access needed for this type of local office – services - retail activity. The Unified Zoning Code requires a zoning change from residential zoning to GO General Office, NR Neighborhood Retail, LC Limited Commercial, GC General Commercial, CBD Central Business District, Limited Industrial or GI General Industrial for parking area, commercial.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED, subject to dedication of complete access control and 10-ft of additional right-of-way, per City Standards.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned TF-3 Two Family and GO General Office. Use of the surrounding area is predominately for single-family residential with local retail and office located at the intersections off Douglas – Meridian and Douglas – Edwards. There are 3 other homes and the subject property and between the applicant's optometry office and the Dillon's.
2. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is current, with the optometry office abutting it to the west on GO General Office Zoning. This property could remain residential in its use or be used as proposed with the zoning change to bring the optometry office into compliance with the number of parking spaces needed for this type of activity and the square footage of the building. Douglas at this location provides the access needed for this type of local office – services - retail activity.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows this site as appropriate for medium density residential. Douglas at this location provides the access needed for this type of local office – services - retail activity. The Planning Commission has a policy of generally supporting the expansion of existing businesses.
5. Impact of the proposed development on community facilities: The impact of this development on the community

facilities will be minimal.

LONGNECKER "The applicant is requesting a zone change from 'TF-3' Two-Family to 'GO' General Office. The reason for this request is the applicant is going to build additional, off street parking for his optometry business, located on the southeast corner of Edwards and Douglas streets. The applicant has submitted a site plan and since this site plan submittal that you now have, the applicant has now re-submitted a site plan, which shows additional landscaping on his properties to the east.

Staff is recommending approval of this request, subject to dedication of the complete access control and the right-of-way per City standards. These recommendations are based on the 5 criteria that are listed on Pages 3 and 4. Are there any questions?"

MICHAELIS "Are there any questions of staff? Thank you, Mr. Longnecker. May we hear from the applicant?"

LISA BUCKINGHAM "I am with MKEC, here representing the applicant, who is also present. We are in support of the staff comments."

MICHAELIS "Are there any questions of the applicant? Thank you, Ms. Buckingham. Is there anyone else in the audience wishing to speak in favor of this?"

JEFF YARROW "I am the applicant with my partner, Ron Fisher. Not to delay this because it is almost 5:00, but just a little bit of history. We have been in this particular building—our practice has been in this particular building since 1970. We have grown to the point that we don't have enough parking and we have been faced with the decision of do we stay in our current location or do we move? Our desire is to stay in our location. We serve a lot of the residents in this particular area of town. We think it is compliance and is heading in the same direction that the City is doing in supporting the redevelopment of the Delano district, which is just two blocks to the west of where our current office is. We appreciate the support, and we agree with the staff's remarks. Thank you."

MICHAELIS "Is there anyone else wishing to speak in favor of this? Is there anyone wishing to speak in opposition to? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned TF-3 Two Family and GO General Office. Use of the surrounding area is predominately for single-family residential with local retail and office located at the intersections off Douglas – Meridian and Douglas – Edwards. There are 3 other homes and the subject property and between the applicant's optometry office and the Dillon's. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site is current, with the optometry office abutting it to the west on GO General Office Zoning. This property could remain residential in its use or be used as proposed with the zoning change to bring the optometry office into compliance with the number of parking spaces needed for this type of activity and the square footage of the building. Douglas at this location provides the access needed for this type of local office – services - retail activity. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows this site as appropriate for medium density residential. Douglas at this location provides the access needed for this type of local office – services- retail activity. The Planning Commission has a policy of generally supporting the expansion of existing businesses. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.) I move that we recommend to the governing body that the request be approved, subject to the dedication of complete access control and right-of-way, per City standards.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried unanimously (13-0).

17. **Case No. ZON2001-00026** – Sedgwick County Farm Bureau Association (applicant); Baughman Company, P.A. (Terry Smythe) and Quest Realty (Calvin Klaassen, agents) request zone change from "GO" General Office to "LC" Limited Commercial on property described as:

Lot 1, except the South 10 feet for street, Block A, West Central Gardens Third Addition, Sedgwick County, Kansas. Generally located north of Central and west of Boyd.

DALE MILLER, Planning staff pointed out land use and zoning; and showed slides of the general area; He reviewed the following staff report:

BACKGROUND: The applicant is seeking a zone change from "GO" General Office to "LC" Limited Commercial. The application area is a platted lot located at the northwest corner of west Central Avenue and Boyd Avenue. The site is .32 acre in size. A vacant office building with garage door openings to the north and south exists on the site today (the building was previously occupied by an insurance claims office). The applicant has a windshield replacement business that is interested in locating on this site. Curb cuts exist on Arapaho and on Boyd Avenue. A screening fence exists along the west property line.

Nearby properties are zoned "SF-6" Single-family Residential or "LC" Limited Commercial. These properties are developed with retail commercial, office or single-family residential uses. Between the Wichita-Valley Center Floodway and I-235 there are only two lots having frontage on Central, other than the application area, that are not zoned "LC".

The landscape ordinance will not be triggered by this zone change application so street, parking lot and buffer landscaping normally obtained with new construction will not be required unless significant remodeling or parking lot improvements are made. A 25-foot compatibility setback would be required along the west property line if this were new construction. The site appears to be nonconforming for this requirement unless an adjustment is obtained as it does not appear that there is currently a sufficient compatibility setback today.

CASE HISTORY: West Central Gardens 3rd Addition was platted in 1956.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Single-family Residential; single-family residence
SOUTH: "LC" Limited Commercial; convenience and service retail
EAST: "LC" Limited Commercial; office
WEST: "LC" Limited Commercial; single-family residence

PUBLIC SERVICES: Municipal water and sewer services are available. Central Avenue is currently developed as a 5-lane arterial, but is designated as a 6 or 7-lane arterial in the 2030 Transportation Plan. The City's current CIP does not contain a project for these 2030 improvements. Central carries between 24,137 and 31,674 average daily trips between I-235 and Ridge Road. Boyd and Arapaho are local streets.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Protective Overlay conditions:

- A. Complete access control to Central.
- B. If the site is redeveloped, then complete access control shall be provided along Arapaho.
- C. The garage doors to the north shall remain closed at all time except when needed to provide access to the business.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Surrounding property is zoned "LC" Limited Commercial or "SF-6" Single-family Residential. Uses are a mix of retail commercial, office and single-family residential. A five-lane arterial carrying up to 31,600 trips per day is adjacent to many of the neighboring properties.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned "GO" General Office and is developed with a combination office and drive through bay. It would be possible for the site to be used as currently zoned or the drive through could be remodeled into additional office space to make the building more marketable for office uses. However, the site is the only "GO" zoned track along Central between the "Big Ditch" and I-235.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The change in zoning would permit more intense uses than those permitted by the current zoning. The property is bounded on three sides by streets so only the property to the west shares a common lot line with the application area. The zoning code requires screening that is already in place along the western property line. However the landscape ordinance will not be triggered by this zoning application.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request should make the property more marketable thereby increasing the potential for the property to be occupied and providing useful services.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development. For the most part, this site appears to be in compliance with adopted plans and policies.
6. Impact of the proposed development on community facilities: Traffic could increase, however existing facilities are in place to handle expected demands.

MILLER "The application area on this one is located just north of West Central, west of Boyd. It is a request to go from 'GO' General Office to 'LC' Limited Commercial. The site has what I think is a vacant insurance adjustment office, where if you have damage to your vehicle here and they told you what they were going to do.

The applicant indicates that they have a firm that would repair windshields interested in this particular location, so they are asking for the 'LC' Limited Commercial, primarily because on the zoning map you can see that 'LC' fits in pretty well with everything else that is going on there. Staff is supportive of the request. The Plan indicates that this area is appropriate for commercial uses and we are recommending that it be approved, subject to three Protective Overlay conditions. Complete access control access to Central, and that if the site is redeveloped with something else that they will provide complete access control to Arapahoe because today, as you notice, they do have the bays that allow for someone to come in off of Arapahoe and come through and then the third one is that the garage doors to the north where the residences are would remain closed except when they need to be open to get folks in. I would be happy to answer any questions."

MICHAELIS "Are there any questions of staff?"

GAROFALO "I am not sure I understand this—did you say complete access control on Central?"

MILLER "On Arapahoe. (Indicating) We already have it here. We don't have it here on Central with the plat and there aren't any driveways there today, so we would like to get that now. Then in the future, if this site is ever re-developed, then we would like to get access control here (Arapahoe) because there is a drive off of Boyd and the plan discourages commercial activity on residential streets. That is what we are trying to do."

GAROFALO "I see. So currently the access is on Boyd?"

MILLER "There is an access off of Boyd and an access off of Arapahoe."

GAROFALO "Okay. You would eliminate Arapahoe."

MILLER "Yes, in the future."

MICHAELIS "Are there any further questions of staff? May we hear from the applicant, please?"

SMYTHE "I am with the Baughman Company, here on behalf of the applicant. We agree with all of the staff comments."

MICHAELIS "Are there any questions of the applicant? Is there anyone else in the audience wishing to speak in favor of this? Is there anyone wishing to speak in opposition? Seeing none, I will bring it back to the Planning Commission."

MOTION: Having considered the facts as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Surrounding property is zoned "LC" Limited Commercial or "SF-6" Single-family Residential. Uses are a mix of retail commercial, office and single-family residential. A five-lane arterial carrying up to 31,600 trips per day is adjacent to many of the neighboring properties. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GO" General Office and is developed with a combination office and drive through bay. It would be possible for the site to be used as currently zoned or the drive through could be remodeled into additional office space to make the building more marketable for office uses. However, the site is the only "GO" zoned track along Central between the "Big Ditch" and t235. Extent to which removal of the restrictions will detrimentally affect nearby property: The change in zoning would permit more intense uses than those permitted by the current

zoning. The property is bounded on three sides by streets so only the property to the west shares a common lot line with the application area. The zoning code requires screening that is already in place along the western property line. However the landscape ordinance will not be triggered by this zoning application. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request should make the property more marketable thereby increasing the potential for the property to be occupied and providing useful services. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" depicts this site as appropriate for "commercial" uses. Commercial Location Guidelines contained in the Comprehensive Plan indicate: commercial sites should be located adjacent to arterial streets or major thoroughfares; access should be located so as to avoid traffic congestion; site design features should limit noise, lighting or other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should be located in compact clusters or nodes versus extended strip developments; commercially generated traffic should not feed directly onto local streets and commercial uses not located in planned centers should be directed to ...established areas of similar development; and where, traffic patterns, surrounding land uses and utilities can support such development. For the most part, this site appears to be in compliance with adopted plans and policies. Impact of the proposed development on community facilities: Traffic could increase, however existing facilities are in place to handle expected demands.) I move that we recommend to the governing body that the request be approved.

COULTER moved, **GAROFALO** seconded the motion, and it carried unanimously (13-0).

18. **Case No. ZON20001-00029** – Leewood Homes c/o Joe Lee (Owner/Applicant); Baughman Company, P.A. c/o Phil Meyer (Agent) request zone change from "SF-6" Single-Family Residential & "LC" Limited Commercial to "LC" Limited Commercial and "SF-6" Single-Family Residential on property described as:

"SF-6" TO "LC"

Beginning at the NE corner of the NE 1/4 of Sec. 26, Twp. 26-S, R1-E of the 6th P.M., Sedgwick County, Kansas; thence westerly along the north line of said NE 1/4 to the NW corner of the E 1/2 of said NE 1/4; thence southerly along the west line of the E 1/2 of said NE 1/4, 245.25 feet; thence easterly with a deflection angle to the left of 90B00'00" to a point on the east line of said NE 1/4, said point being 252.46 feet south of the NE corner of said NE 1/4; thence northerly along the east line of said NE 1/4, 252.46 feet to the point of beginning, EXCEPT the east 600.00 feet thereof, subject to road rights-of-way of record. Area: 136,467.06 Sq. Ft. or 3.13 Acres more or less.

"LC" TO "SF-6"

That part of the NE 1/4 of Sec. 26, Twp. 26-S, R1-E of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the NE corner of said NE 1/4; thence southerly along the east line of said NE 1/4, 252.46 feet for a point of beginning; thence continuing southerly along the east line of said SE 1/4, 347.54 feet to a point 600.00 feet normally distant south of the north line of said NE 1/4; thence westerly parallel with the north line of said NE 1/4, 600.00 feet; thence northerly parallel with the east line of said NE 1/4, 350.80 feet to a point 249.20 feet normally distant south of the north line of said NE 1/4; thence easterly with a deflection angle to the right of 90°12'34", 600.00 feet to the point of beginning, subject to road rights-of-way of record. Generally located on the southwest corner of 45th Street North and Oliver.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial on a 3.1 acre unplatted tract and from "LC" Limited Commercial to "SF-6" Single-Family Residential on an adjoining 4.5 acre unplatted tract. Both tracts are located at the southwest corner of 45th Street North and Oliver. A plat (SUB2000-00109: Eagles Landing at North Oliver) that includes the property requested for rezoning is scheduled to heard by the MAPC at the same hearing as the rezoning request.

The southwest corner of 45th Street North and Oliver contains a 7.5 acre tract of "LC" Limited Commercial zoning; however, an eastwest drainage way bisects the existing commercial tract. The applicant is proposing to locate commercial uses north of the drainage way and single-family residences south of the drainage way; therefore, the applicant is proposing to "down zone" 4.5 acres to "SF-6" Single-Family Residential for use as a drainage reserve and

single-family lots. In exchange, the applicant is requesting 3.1 acres of "LC" Limited Commercial zoning north of the drainage way along the site's frontage to 45th Street North.

The surrounding area is located on the urban fringe of the Wichita metropolitan area, with most of the land in the area still used for agriculture. With the exception of a 6.3 acre undeveloped tract at northwest corner of 45th Street North and Oliver that is zoned "LC" Limited Commercial, the properties north, south, and west of the site are zoned "SF-6" Single-Family Residential and are undeveloped. The properties east of the site are located within the City of Bel Aire and are developed with single-family residences.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" & "LC"	Undeveloped
SOUTH:	"SF-6"	Undeveloped
EAST:	Bel Aire	Single-family
WEST:	"SF-6"	Undeveloped

PUBLIC SERVICES: The site has access to 45th Street North and Oliver, both of which are two-lane arterial streets. The traffic volume on 45th Street North is approximately 5,600 vehicles per day. The 2030 Transportation Plan estimates that the traffic volume on 45th Street North will increase to approximately 13,000 vehicles per day. The traffic volume on Oliver is approximately 3,800 vehicles per day. The 2030 Transportation Plan estimates that the traffic volume on Oliver will increase to approximately 6,250 vehicles per day. Public water and sewer are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development; however, the owner over 1,000 acres of the surrounding property has indicated to planning staff that their intended use for the eastern portion of the property in the area is primarily for residential and commercial uses rather than industrial uses. Also, USD 259 is expected to accept the dedication of 40 acres in this area to construct a new school. Since the proposed uses of the subject property are consistent with the intended uses of the surrounding property and are less intensive than the industrial uses recommended by the Land Use Guide, the proposed uses are found to be consistent with the Comprehensive Plan.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is located on the urban fringe of the Wichita metropolitan area, with most of the land in the area still used for agriculture. With the exception of a 6.3 acre undeveloped tract at northwest corner of 45th Street North and Oliver that is zoned "LC" Limited Commercial, the properties north, south, and west of the site are zoned "SF-6" Single-Family Residential and are undeveloped. The properties east of the site are located within the City of Bel Aire and are developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned "LC" Limited Commercial and "SF-6" Single-Family Residential and is suitable for the uses for which it has been restricted. Since the nature of the zone change request is to relocate the commercially and residentially zoned portions of the property to better accommodate the natural features of the land, the suitability of the subject property for the uses to which it has been restricted will be improved by the requested zone change.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from existing residential properties to the east by an arterial street, which should further limit detrimental affects on nearby properties.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development; however, the owner over 1,000 acres of the surrounding property has indicated to planning staff that their intended use for the eastern portion of the property in the area is primarily for residential and commercial uses rather than industrial uses. Also, USD 259 is expected to accept the dedication of 40 acres in this area to construct a new school. Since the proposed uses of the subject property are consistent with the intended uses of the surrounding property and are less intensive than the industrial uses recommended by the Land Use Guide, the proposed uses are found to be consistent with the Comprehensive Plan..
5. **Impact of the proposed development on community facilities:** Community facilities should not be adversely impacted.

KNEBEL "This request for rezoning is a little bit confusing. It is a request to rezone from 'SF-6' Single-Family Residential to 'LC' Limited Commercial; and then from 'LC' to 'SF-6'. The property is within a floodway that runs across here. The applicant has filed a plat, which we will need to consider after we consider this zone change, and is requesting to essentially exchange this Limited Commercial zoning for Limited Commercial zoning up here (indicating) along 45th Street. Because this area is in the floodway, they have platted a floodway reserve through this location and then have platted single-family lots across from that floodway and have a buffer between the commercial and the single-family lots that they are intending to develop.

Unless somebody is interested, all of the information I think that is pertinent is in the staff report. This particular case will be heard by the District Advisory Board on May 21 due to a cancellation of their last meeting. Staff is recommending that it approved, subject to approval of the plat, which is also before you for consideration today."

MICHAELIS "Are there any questions of staff? May we hear from the applicant?"

RUSS EWY "I am with the Baughman Company, agent for the applicant. We are in agreement with the staff comments."

MICHAELIS "We're moving right along here, making progress. Is there anyone else in the audience.....there is no audience! Does anyone want to speak? Okay, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is located on the urban fringe of the Wichita metropolitan area, with most of the land in the area still used for agriculture. With the exception of a 6.3 acre undeveloped tract at northwest corner of 45th Street North and Oliver that is zoned "LC" Limited Commercial, the properties north, south, and west of the site are zoned "SF-6" Single-Family Residential and are undeveloped. The properties east of the site are located within the City of Bel Aire and are developed with single-family residences. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial and "SF-6" Single-Family Residential and is suitable for the uses for which it has been restricted. Since the nature of the zone change request is to relocate the commercially and residentially zoned portions of the property to better accommodate the natural features of the land, the suitability of the subject property for the uses to which it has been restricted will be improved by the requested zone change. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from existing residential properties to the east by an arterial street, which should further limit detrimental affects on nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Industrial" development; however, the owner over 1,000 acres of the surrounding property has indicated to planning staff that their intended use for the eastern portion of the property in the area is primarily for residential and commercial uses rather than industrial uses. Also, USD 259 is expected to accept the dedication of 40 acres in this area to construct a new school. Since the proposed uses of the subject property are consistent with the intended uses of the surrounding property and are less intensive than the industrial uses recommended by the Land Use Guide, the proposed uses are found to be consistent with the Comprehensive Plan. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to platting within 1 year.

LOPEZ moved, **COULTER** seconded the motion, and it carried unanimously (13-0).

MICHAELIS "All right, now we will take Subdivision Item 3/2, which is associated with this case."

3/2. SUB2000-00109- Final Plat of EAGLE'S LANDING AT NORTH OLIVER ADDITION, located on the southwest corner of 45th Street North and Oliver.

- A. The applicant shall guarantee the extension of City water and sanitary sewer services to the site. City Engineering needs to comment on the need for any additional guarantees or easements. An off-site drainage agreement is required.

- B. This plat will be subject to approval of the associated zone change (ZON 2001-29) and any related conditions of such a zone change.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City and County Engineering need to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- E. County Engineering needs to comment on the access controls. Distances should be shown for all segments of access control. County Engineering has required complete access control along the plat's frontage to Oliver. Shared openings are required between Lots 1 and 2, Block E, and between Lots 3 and 4, Block E.

Access controls have been platted as requested.

- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easements should also be addressed by the text of the instrument.
- G. County Engineering will meet with the applicant regarding the need for alignment of Willowpoint Road on both sides of Oliver. The current alignment as platted is acceptable.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. It is recommended that the applicant plat a pedestrian access easement between Lots 15 and 16, Block D, to increase the accessibility and usefulness of Reserve B.

The requested pedestrian access easement has been platted.

- K. City Fire Department/GIS has required new street names.
- L. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements and setbacks shown are sufficient and that utilities may be located adjacent to and within the easements.
- M. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- N. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- O. The Subdivision Regulations require a 75-ft half-street right-of-way at arterial intersections; however Traffic Engineering has approved a 60-ft right-of-way with corner clip at the 45th St. North and Oliver intersection.
- P. For Lot 5, Block A, the lot depth to width ratio exceeds the maximum 2.5 to as specified by the Subdivision Regulations. A modification from the Subdivision regulations has been approved.
- Q. A street stub should be provided along the west line of the plat to provide potential street connection to adjoining undeveloped property.
- R. The street stub has been platted as requested.
- S. Blocks D and E should be labeled as one block.
- T. The applicant shall guarantee the paving of the proposed interior streets. The paving guarantee shall also provide for sidewalk on at least one side of all through, non-cul-de-sac streets.
- U. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- V. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights -of-way, or reserves shall remain at established grades or as modified with the approval of the

applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- W. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Y. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- DD. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- EE. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MILLER "This is basically a plat. I can go back to it if you really need see it."

MICHAELIS "We have already been through it. Are there any questions of staff? Is the applicant here?"

RUSS EWY "I am with the Baughman Company, agent for the applicant. There are no further comments and I will stand for any questions."

MICHAELIS "Are there any questions of the applicant? Seeing none, is there anyone in the audience wishing to speak in favor or against? Seeing none, I will bring it back to the Commission."

MOTION: That the Planning Commission recommend to the governing body that the request be approved.

WARREN moved, **COULTER** seconded the motion, and it carried unanimously (13-0).

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19. **Case No. ZON2001-00027** – Lucille and Herbert Lewis (Owner/Applicant); Baughman Company, PA c/o Terry Smythe (Agent) request a zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial" zoning on property described as:

The South 288.7 feet of the West 5 Acres of the East Half of the Southwest Quarter of the Southwest Quarter, except the East 30 feet and the South 55 feet for street, Section 14, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located on the northwest corner of Central and Elder.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial on a 0.75 acre unplatted tract located at the northwest corner of Central and Elder. The site is currently developed with a single-family residence, and the applicant proposes to redevelop the site with small limited commercial uses.

The surrounding area is characterized by a mixture of uses with commercial uses to the west, southwest, and southeast; residential uses to the northwest, north, and east, and institutional uses to the south. The property west of the site is zoned "LC" Limited Commercial and is developed with a furniture store. The property north of the site is zoned "SF-6"

Single-Family Residential and is developed with a single-family residence. The properties east of the site across Elder are zoned "SF-6" Single Family Residential and are developed with single-family residences. The property south of the site across Central is zoned "LC" Limited Commercial and "TF-3" Two-Family Residential and is developed with a police and fire station.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Single-Family
SOUTH:	"LC" & "TF-3"	Safety Service
EAST:	"SF-6"	Single-Family
WEST:	"LC"	Retail, General

PUBLIC SERVICES: The site has access to both Central and Elder. Elder is an unpaved local street. Central is a five-lane arterial street with traffic volumes of approximately 27,000 vehicles per day. The 2030 Transportation Plan estimates future traffic volumes on Central to decrease to approximately 24,000 vehicles per day. The 2030 Transportation plan projected a decrease in traffic volume based on the assumption that additional crossings of I235/Big Ditch would be constructed by 2030.

If the subject property were developed with a high-traffic generating use permitted in the "LC" Limited Commercial district such as a convenience store or drive-through restaurant, the subject property would generate approximately 700-900 additional vehicles per day. If the property were developed with a small strip shopping center containing specialty retail, service businesses, and small, sit-down restaurants, the subject property would generate approximately 250-300 additional vehicles per day.

Since the site is unplatted, no access controls have been determined for the subject property; however, there is an existing curb cut along Central to serve the existing single-family residence. Several issues will make addressing access issues at the time of platting difficult. First, the limited (138 feet) frontage along Central does not provide adequate separation between an access drive and Elder. Second, the existing commercial property to the west has an access drive that is located approximately 120 west of the west property line of the subject property. Third, Elder is unpaved, and providing access to Elder would require the street to be paved. The owner of the single-family residence to the east across Elder has contacted planning staff and indicated that he is not willing to participate in the cost of paving Elder. Finally, a police and fire station is located across Central to the south, which makes addressing access issues extremely important so as not to negatively impact response times of public safety vehicles.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines indicate that commercial sites should be located adjacent to arterial streets and should have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential land uses. The Commercial Locational Guidelines also indicate that commercially-generated traffic should not feed directly onto local residential streets.

The Goals, Objectives, and Strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use-Commercial/Office section contains the following strategies pertaining to the requested zone change:

- III.B1. Regulate new strip commercial development to areas identified by the "Wichita Land Use Guide" and neighborhood/subarea plans for expansion.
- III.B3. Work with property owners and businesses to reduce the number of access points along arterial streets, thus improving traffic safety and flow.
- III.B6. Channel traffic generated by commercial activities to the closest major thoroughfare with minimum impact upon local residential streets.

RECOMMENDATION: While planning staff finds the subject property appropriate for commercial development, the types of uses permitted by the "LC" Limited Commercial zoning district (i.e., drive-through restaurants, convenience stores, auto-related uses) are too intense given the limited size of site and the site's location removed from an arterial intersection, near existing residential development, and across the street from a police and fire station. Intense commercial development of the site would likely lead to adverse impacts from lighting, noise, and trash on surrounding residential land uses and conflict more with emergency response. To mitigate these impacts, planning staff recommends that the subject property be developed with small, neighborhood serving commercial development such as specialty retail, service businesses, and small, sit-down restaurants. These types of uses are permitted by the "NR" Neighborhood Retail zoning district. Based upon information available prior to the public hearings, planning staff recommends that the request for "LC" Limited Commercial zoning be DENIED and instead that "NR" Neighborhood Retail zoning be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses with commercial uses to the west, southwest, and southeast; residential uses to the northwest, north, and east, and institutional uses to the south. The property west of the site is zoned "LC" Limited Commercial and is developed with a furniture store. The property north of the site are zoned "SF-6" Single-Family Residential and are developed with a single-family residence. The properties east of the site across Elder is zoned "SF-6" Single Family Residential and is developed with single-family residences. The property south of the site across Central is zoned "LC" Limited Commercial and "TF-3" Two-Family Residential and is developed with a police and fire station.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The purpose of the "NR" Neighborhood Retail district recommended by planning staff is to accommodate very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. Given the site's location along an arterial and the orientation of the structure facing the arterial street, the long-term viability of the existing single-family residence on the site is questionable. The long-term use of the property is more suited for low-intensity commercial or office uses permitted in the "NR" district.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: While the existing commercial properties in the area are zoned "LC" Limited Commercial, the zoning of these properties was granted in the 1970s and 1980s when the "LC" district was the least intensive commercial zoning district. Within the past several years, the Unified Zoning Code has been amended to create a "NR" Neighborhood Retail district that permits low-intensity commercial and office uses that are appropriate near residential neighborhoods. While the low-intensity nature of the commercial and office uses permitted by the "NR" district should mitigate most detrimental affects on nearby residential uses, the screening, lighting, and compatibility standards of the Unified Zoning Code; the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance; and the greater restrictions on signage in the "NR" district in the Sign Code should further limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The "NR" Neighborhood Retail zoning district recommended by planning staff is compatible with the "Commercial" designation. The Comprehensive Plan strategies pertaining to access control will be addressed through the platting process.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the platting process.

KNEBEL "This is a request for Limited Commercial zoning at the northwest corner of Central and Elder. The surrounding area has a mixture of uses, including commercial, residential and institutional. This area is basically immediately across the street from the police and fire station. It is currently developed with a single-family house. There is commercial to the west, residential to the east, commercial to the southeast, the police substation to the south commercial, to the southwest, and then residential to the north.

The Planning staff is recommending, for numerous reasons, which are stated in the Conformance to the Plans and Policies, that the request be approved for Neighborhood Retail rather than for Limited Commercial. That is a commercial zoning district which is much more compatible with nearby residential that still exists and is still quite viable in the area. We are recommending approval subject to platting within 1 year. I can go into detail on the reasons behind that request if you would like for me to, or you can just ask me questions about it."

MICHAELIS "Are there any questions of staff?"

PLATT "Did the DAB meet?"

KNEBEL "The District Advisory Board did recommend approval of Neighborhood Retail at their meeting earlier this week."

MICHAELIS "May we hear from the applicant?"

TERRY SMYTHE "I am here on behalf of the applicant. We are in agreement with staff comments."

MICHAELIS "Is there anyone in the audience wishing to speak in favor or in opposition? We'll bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses with commercial uses to the west, southwest, and southeast; residential uses to the northwest, north, and east, and institutional uses to the

south. The property west of the site is zoned "LC" Limited Commercial and is developed with a furniture store. The property north of the site are zoned "SF-6" Single-Family Residential and are developed with a single-family residence. The properties east of the site across Elder is zoned "SF-6" Single Family Residential and is developed with single-family residences. The property south of the site across Central is zoned "LC" Limited Commercial and "TF-3" Two-Family Residential and is developed with a police and fire station. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The purpose of the "NR" Neighborhood Retail district recommended by planning staff is to accommodate very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. Given the site's location along an arterial and the orientation of the structure facing the arterial street, the long-term viability of the existing single-family residence on the site is questionable. The long-term use of the property is more suited for low-intensity commercial or office uses permitted in the "NR" district. Extent to which removal of the restrictions will detrimentally affect nearby property: While the existing commercial properties in the area are zoned "LC" Limited Commercial, the zoning of these properties was granted in the 1970s and 1980s when the "LC" district was the least intensive commercial zoning district. Within the past several years, the Unified Zoning Code has been amended to create a "NR" Neighborhood Retail district that permits low-intensity commercial and office uses that are appropriate near residential neighborhoods. While the low-intensity nature of the commercial and office uses permitted by the "NR" district should mitigate most detrimental affects on nearby residential uses, the screening, lighting, and compatibility standards of the Unified Zoning Code; the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance; and the greater restrictions on signage in the "NR" district in the Sign Code should further limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The "NR" Neighborhood Retail zoning district recommended by planning staff is compatible with the "Commercial" designation. The Comprehensive Plan strategies pertaining to access control will be addressed through the platting process. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the platting process.) I move that we recommend to the governing body that the request For "LC" Limited Commercial be denied and instead that a zone change to "NR" Neighborhood Retail be approved.

GAROFALO moved, **BISHOP** seconded the motion, and it carried unanimously (13-0).

20. **Other matters**

MICHAELIS "Are there any other matters?"

KROUT "I want to bring you up to date on a couple of controversial cases that were appealed by the City Council, just to let you know what happened.

One case was a tower on St. Francis, if you remember, it was a very close vote on whether or not to permit the tower 300 feet away from the other tower. The City Council appealed that decision and then voted to deny that case.

The second case was the car lot that was at Wassall and Hydraulic. You had acted on it before the District Advisory Board and it turned out that there was neighborhood opposition at the DAB. The DAB voted to deny it, and the City Council, when they took it on appeal, voted to deny that case.

May 24, two weeks from today, we have a fairly light agenda of zoning items, but we want to talk about residential parking and storage and front yards. By the way, the City Council and County Commission, with no changes, approved all of the other zoning amendments this past couple of days. But we left residential parking and storage in front yards for separate discussion, and told the people who were interested in that if they wanted to come back, we were going to be discussing it on May 24 after the zoning hearings. We took a couple of items under advisement, but I still say that we will get to that by 3:00 o'clock at the latest. I think.

Does the subcommittee want to get together before then to discuss these items? Remember there were 3 or 4 items that we opened it up for a second hearing on and we had several people who spoke on various issues. They were there at the County Commission yesterday, by the way, and were talking about registration—which is one of the issues—inoperable vehicles; the size of trailers you can park in front yards."

MCKAY "It might be a good idea if we just have a meeting to bring us up to date on those. If you want to do it next Tuesday morning."

KROUT "Next Tuesday at 7:30?"

MCKAY "Yeah, let's just have the Advance Plans meet at 7:30 next Tuesday."

KROUT "Okay."

MARNELL "I will not be here on the 24th."

KROUT "Okay. You are welcome to come to Advance Plans though."

MCKAY "What is that date?"

KROUT "The 15th."

WARREN "Mr. Chair, I will be brief, but I had a call from a gentleman who said that he didn't understand and he wanted me to confirm it and I really couldn't, that we had approved this number of cars in our Zoning Code. The reason he brought it up was that he said we listened to them the other day and took them into consideration, but now they are finding out that on April 2 or 3 that we had already approved it. I didn't realize we had approved anything in the zoning change, but in fact we were going to look at all of it once."

KROUT "No. The County Commission, if you remember, didn't ask for your input on a separate resolution dealing with the storage of inoperable vehicles."

WARREN "So it wasn't the Zoning Code then."

HENTZEN "I just want to tell you that I will be gone on the 24th of May, also."

BARFIELD "What is the status of the 21st and Oliver storage facility?"

KROUT "The 21st and Oliver storage facility was taken under advisement and sent back to the District Advisory Board. They will look at it again in June. The reason given by the applicant's agent was that the DAB had looked at a separate independent building and you looked at an attached building. They think maybe the DAB will change their mind, based on the difference.

The other thing is that Councilmember Brewer cannot participate because he voted on this case when he was a DAB member."

MICHAELIS "Are there any other matters? Okay."

The Metropolitan Area Planning Commission informally adjourned at 5:12 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan

Area Planning Commission

(SEAL)

